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Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 530

An act to add and repeal Section 1349.3 of the Health and Safety Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1349.3 is added to the Health and Safety Code, to read:

1349.3. (a) On or after January 1, 2000, no license with waivers or limited license shall be issued to any person, including a provider or an affiliate of a provider, for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to enrollees of another plan under a contract or other arrangement whereby the person assumes financial risk for the provision of at least both physician services and hospital inpatient and ambulatory care services to the enrollees of the plan with which the person proposes to contract or make an arrangement. On and after January 1, 2000, no licensed health care service plan shall contract with any person, other than a licensed health care service plan or licensed health care service plan with waivers, for the assumption of financial risk with respect to the provision of both institutional and noninstitutional health care services and any other form of global capitation. Nothing in this section may be construed to prohibit or authorize, other than as provided by existing law, any contracting for the assumption of financial risk for health care services.

(b) An applicant for a license with waivers or a limited license that has an application on file with the director on August 1, 1999, shall be entitled to a refund of the application filing fee paid as of January 1, 2000.

(c) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. 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.

CHAPTER 531

An act to add Section 1383.15 to the Health and Safety Code, and to add Section 10123.68 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1383.15 is added to the Health and Safety Code, immediately following Section 1383.1, to read:

1383.15. (a) When requested by an enrollee or participating health professional who is treating an enrollee, a health care service plan shall provide or authorize a second opinion by an appropriately qualified health care professional. Reasons for a second opinion to be provided or authorized shall include, but are not limited to, the following:

(1) If the enrollee questions the reasonableness or necessity of recommended surgical procedures.

(2) If the enrollee questions a diagnosis or plan of care for a condition that threatens loss of life, loss of limb, loss of bodily function, or substantial impairment, including, but not limited to, a serious chronic condition.

(3) If the clinical indications are not clear or are complex and confusing, a diagnosis is in doubt due to conflicting test results, or the treating health professional is unable to diagnose the condition, and the enrollee requests an additional diagnosis.

(4) If the treatment plan in progress is not improving the medical condition of the enrollee within an appropriate period of time given the diagnosis and plan of care, and the enrollee requests a second opinion regarding the diagnosis or continuance of the treatment.

(5) If the enrollee has attempted to follow the plan of care or consulted with the initial provider concerning serious concerns about the diagnosis or plan of care.

(b) For purposes of this section, an appropriately qualified health care professional is a primary care physician or a specialist who is acting within his or her scope of practice and who possesses a clinical background, including training and expertise, related to the particular illness, disease, condition or conditions associated with the request for a second opinion.

(c) If an enrollee or participating health professional who is treating an enrollee requests a second opinion pursuant to this section, an authorization or denial shall be provided in an expeditious manner. When the enrollee's condition is such that the enrollee faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily

function, or lack of timeliness that would be detrimental to the enrollee's ability to regain maximum function, the second opinion shall be rendered in a timely fashion appropriate for the nature of the enrollee's condition, not to exceed 72 hours after the plan's receipt of the request, whenever possible. Each plan shall file with the Department of Managed Care timelines for responding to requests for second opinions for cases involving emergency needs, urgent care, and other requests by July 1, 2000, and within 30 days of any amendment to the timelines. The timelines shall be made available to the public upon request.

(d) If a health care service plan approves a request by an enrollee for a second opinion, the enrollee shall be responsible only for the costs of applicable copayments that the plan requires for similar referrals.

(e) If the enrollee is requesting a second opinion about care from his or her primary care physician, the second opinion shall be provided by an appropriately qualified health care professional of the enrollee's choice within the same physician organization.

(f) If the enrollee is requesting a second opinion about care from a specialist, the second opinion shall be provided by any provider of the enrollee's choice from any independent practice association or medical group within the network of the same or equivalent specialty. If the specialist is not within the same physician organization, the plan shall incur the cost or negotiate the fee arrangements of that second opinion, beyond the applicable copayments which shall be paid by the enrollee. If not authorized by the plan, additional medical opinions not within the original physician organization shall be the responsibility of the enrollee.

(g) If there is no participating plan provider within the network who meets the standard specified in subdivision (b), then the plan shall authorize a second opinion by an appropriately qualified health professional outside of the plan's provider network. In approving a second opinion either inside or outside of the plan's provider network, the plan shall take into account the ability of the enrollee to travel to the provider.

(h) The health care service plan shall require the second opinion health professional to provide the enrollee and the initial health professional with a consultation report, including any recommended procedures or tests that the second opinion health professional believes appropriate. Nothing in this section shall be construed to prevent the plan from authorizing, based on its independent determination, additional medical opinions concerning the medical condition of an enrollee.

(i) If the health care service plan denies a request by an enrollee for a second opinion, it shall notify the enrollee in writing of the reasons for the denial and shall inform the enrollee of the right to file a grievance with the plan. The notice shall comply with subdivision (b) of Section 1368.02.

(j) Unless authorized by the plan, in order for services to be covered the enrollee shall obtain services only from a provider who is participating in, or under contract with, the plan pursuant to the specific contract under which the enrollee is entitled to health care services. The plan may limit referrals to its network of providers if there is a participating plan provider who meets the standard specified in subdivision (b).

(k) This section shall not apply to health care service plan contracts that provide benefits to enrollees through preferred provider contracting arrangements if, subject to all other terms and conditions of the contract that apply generally to all other benefits, access to and coverage for second opinions are not limited.

SEC. 2. Section 10123.68 is added to the Insurance Code, immediately following Section 10123.67, to read:

10123.68. (a) When requested by an insured or contracting health professional who is treating an insured, a disability insurer that covers hospital, medical, or surgical expenses shall authorize a second opinion by an appropriately qualified health care professional. Reasons for a second opinion to be provided or authorized shall include, but are not limited to, the following:

(1) If the insured questions the reasonableness or necessity of recommended surgical procedures.

(2) If the insured questions a diagnosis or plan of care for a condition that threatens loss of life, loss of limb, loss of bodily function, or substantial impairment, including, but not limited to, a serious chronic condition.

(3) If clinical indications are not clear or are complex and confusing, a diagnosis is in doubt due to conflicting test results, or the treating health professional is unable to diagnose the condition and the insured requests an additional diagnosis.

(4) If the treatment plan in progress is not improving the medical condition of the insured within an appropriate period of time given the diagnosis and plan of care, and the insured requests a second opinion regarding the diagnosis or continuance of the treatment.

(5) If the insured has attempted to follow the plan of care or consulted with the initial provider concerning serious concerns about the diagnosis or plan of care.

(b) For purposes of this section, an appropriately qualified health care professional is a primary care physician or a specialist who is acting within his or her scope of practice and who possesses a clinical background, including training and expertise, related to the particular illness, disease, condition or conditions associated with the request for a second opinion.

(c) If an insured or participating health professional who is treating an insured requests a second opinion pursuant to this section, an authorization or denial shall be provided in an expeditious manner. When the insured's condition is such that the insured faces an imminent and serious threat to his or her health, including, but not

limited to, the potential loss of life, limb, or other major bodily function, or lack of timeliness that would be detrimental to the insured's life or health or could jeopardize the insured's ability to regain maximum function, the second opinion shall be rendered in a timely fashion appropriate to the nature of the insured's condition, no to exceed 72 hours after the insurer's receipt of the request, whenever possible. Each insurer shall file with the Department of Insurance timelines for responding to requests for second opinions for cases involving emergency needs, urgent care, and other requests by July 1, 2000, and within 30 days of any amendment to the timelines. The timelines shall be made available to the public upon request.

(d) If an insurer approves a request by an insured for a second opinion, the insured shall be responsible only for the costs of applicable copayments that the insurer requires for similar referrals.

(e) If the insured is requesting a second opinion about care from his or her primary care physician, the second opinion shall be provided by an appropriately qualified health care professional of the insured's choice who is contracted with the insurer.

(f) If the insured is requesting a second opinion about care from a specialist, the second opinion shall be provided by any provider of the same or equivalent specialty, of the insured's choice, within the insurer's provider network, if the insurance contract limits second opinions to within a network.

(g) The insurer may limit second opinions to its network of providers if the insurance contract limits the benefit to within a network of providers and there is a participating provider who meets the standard specified in subdivision (b). If there is no participating provider who meets this standard, then the insurer shall authorize a second opinion by an appropriately qualified health professional outside of the insurer's provider network. In approving a second opinion either inside or outside of the insurer's provider network, the insurer shall take into account the ability of the insured to travel to the provider.

(h) The insurer shall require the second opinion health professional to provide the insured and the initial health professional with a consultation report, including any recommended procedures or tests that the second opinion health professional believes appropriate. Nothing in this section shall be construed to prevent the insurer from authorizing, based on its independent determination, additional medical opinions concerning the medical condition of an insured.

(i) If the insurer denies a request by an insured for a second opinion, it shall notify the insured in writing of the reasons for the denial and shall inform the insured of the right to dispute the denial, and the procedures for exercising that right.

(j) If the insurance contract limits health care services to within a network of providers, in order for coverage to be in force, the insured shall obtain services only from a provider who is participating

in, or under contract with, the insurer pursuant to the specific insurance contract under which the insured is entitled to health care service benefits.

(k) This section shall not apply to any policy or contract of disability insurance that covers hospital, medical, or surgical expenses and that does not limit second opinions, subject to all other terms and conditions of the contract.

(*l*) This section shall not apply to accident-only, specified disease, or hospital indemnity health insurance policies.

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.

CHAPTER 532

An act to add Section 1367.25 to the Health and Safety Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. This act shall be known and may be cited as the Women's Contraception Equity Act.

SEC. 2. Section 1367.25 is added to the Health and Safety Code, to read:

1367.25. (a) Every group health care service plan contract, except for a specialized health care service plan contract, that is issued, amended, renewed, or delivered on or after January 1, 2000, and every individual health care service plan contract that is amended, renewed, or delivered on or after January 1, 2000, except for a specialized health care service plan contract, shall provide coverage for the following, under general terms and conditions applicable to all benefits:

(1) A health care service plan contract that provides coverage for outpatient prescription drug benefits shall include coverage for a variety of federal Food and Drug Administration approved prescription contraceptive methods designated by the plan. In the event the patient's participating provider, acting within his or her scope of practice, determines that none of the methods designated by the plan is medically appropriate for the patient's medical or

personal history, the plan shall also provide coverage for another federal Food and Drug Administration approved, medically appropriate prescription contraceptive method prescribed by the patient's provider.

(2) Outpatient prescription benefits for an enrollee shall be the same for an enrollee's covered spouse and covered nonspouse dependents.

(b) Notwithstanding any other provision of this section, a religious employer may request a health care service plan contract without coverage for federal Food and Drug Administration approved contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, a health care service plan contract shall be provided without coverage for contraceptive methods. This subdivision shall not be construed to deny an enrollee coverage of, and timely access to, contraceptive methods.

(1) For purposes of this section, a "religious employer" is an entity for which each of the following is true:

(A) The inculcation of religious values is the purpose of the entity.

(B) The entity primarily employs persons who share the religious tenets of the entity.

(C) The entity serves primarily persons who share the religious tenets of the entity.

(D) The entity is a nonprofit organization as described in Section 6033(a)(2)(A)i or iii, of the Internal Revenue Code of 1986, as amended.

(2) Every religious employer that invokes the exemption provided under this section shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(c) Nothing in this section shall be construed to exclude coverage for prescription contraceptive supplies ordered by a health care provider with prescriptive authority for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for prescription contraception that is necessary to preserve the life or health of an enrollee.

(d) Nothing in this section shall be construed to deny or restrict in any way any existing right or benefit provided under law or by contract.

(e) Nothing in this section shall be construed to require an individual or group health care service plan to cover experimental or investigational treatments.

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.

CHAPTER 533

An act to add Article 5.55 (commencing with Section 1374.30) to Chapter 2.2 of Division 2 of the Health and Safety Code, and to add Article 3.5 (commencing with Section 10169) to Chapter 1 of Part 2 of Division 2 of the Insurance Code, relating to health.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Article 5.55 (commencing with Section 1374.30) is added to Chapter 2.2 of Division 2 of the Health and Safety Code, to read:

Article 5.55. Appeals Seeking Independent Medical Reviews

1374.30. (a) Commencing January 1, 2001, there is hereby established in the department the Independent Medical Review System.

(b) For the purposes of this chapter, "disputed health care service" means any health care service eligible for coverage and payment under a health care service plan contract that has been denied, modified, or delayed by a decision of the plan, or by one of its contracting providers, in whole or in part due to a finding that the service is not medically necessary. A decision regarding a disputed health care service relates to the practice of medicine and is not a coverage decision. A disputed health care service does not include services provided by a specialized health care service plan, except to the extent that the service (1) involves the practice of medicine, or (2) is provided pursuant to a contract with a health care service plan. If a plan, or one of its contracting providers, issues a decision denying, modifying, or delaying health care services, based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the statement of decision shall clearly specify the provision in the contract that excludes that coverage.

(c) For the purposes of this chapter, "coverage decision" means the approval or denial of health care services by a plan, or by one of its contracting entities, substantially based on a finding that the provision of a particular service is included or excluded as a covered benefit under the terms and conditions of the health care service plan

contract. A "coverage decision" does not encompass a plan or contracting provider decision regarding a disputed health care service.

(d) (1) All enrollee grievances involving a disputed health care service are eligible for review under the Independent Medical Review System if the requirements of this article are met. If the department finds that an enrollee grievance involving a disputed health care service does not meet the requirements of this article for review under the Independent Medical Review System, the enrollee request for review shall be treated as a request for the department to review the grievance pursuant to subdivision (b) of Section 1368. All other enrollee grievances, including grievances involving coverage decisions, remain eligible for review by the department pursuant to subdivision (b) of Section 1368.

(2) In any case in which an enrollee or provider asserts that a decision to deny, modify, or delay health care services was based, in whole or in part, on consideration of medical necessity, the department shall have the final authority to determine whether the grievance is more properly resolved pursuant to an independent medical review as provided under this article or pursuant to subdivision (a) of Section 1368.

(3) The department shall be the final arbiter when there is a question as to whether an enrollee grievance is a disputed health care service or a coverage decision. The department shall establish a process to complete an initial screening of an enrollee grievance. If there appears to be any medical necessity issue, the grievance shall be resolved pursuant to an independent medical review as provided under this article or pursuant to subdivision (a) of Section 1368.

(e) Every health care service plan contract that is issued, amended, renewed, or delivered in this state on or after January 1, 2000, shall, effective January 1, 2001, provide an enrollee with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the plan, or by one of its contracting providers, if the decision was based in whole or in part on a finding that the proposed health care services are not medically necessary. For purposes of this article, an enrollee may designate an agent to act on his or her behalf, as described in paragraph (2) of subdivision (b) of Section 1368. The provider may join with or otherwise assist the enrollee in seeking an independent medical review, and may advocate on behalf of the enrollee.

(f) Medi-Cal beneficiaries enrolled in a health care service plan shall not be excluded from participation. Medicare beneficiaries enrolled in a health care service plan shall not be excluded unless expressly preempted by federal law. Reviews of cases for Medi-Cal enrollees shall be conducted in accordance with statutes and regulations for the Medi-Cal program.

(g) The department may seek to integrate the quality of care and consumer protection provisions, including remedies, of the

Independent Medical Review System with related dispute resolution procedures of other health care agency programs, including the Medicare and Medi-Cal programs, in a way that minimizes the potential for duplication, conflict, and added costs. Nothing in this subdivision shall be construed to limit any rights conferred upon enrollees under this chapter.

(h) The independent medical review process authorized by this article is in addition to any other procedures or remedies that may be available.

(i) No later than January 1, 2001, every health care service plan shall prominently display in every plan member handbook or relevant informational brochure, in every plan contract, on enrollee evidence of coverage forms, on copies of plan procedures for resolving grievances, on letters of denials issued by either the plan or its contracting organization, on the grievance forms required under Section 1368, and on all written responses to grievances, information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the plan, or by one of its contracting providers.

(j) An enrollee may apply to the department for an independent medical review when all of the following conditions are met:

(1) (A) The enrollee's provider has recommended a health care service as medically necessary, or

(B) The enrollee has received urgent care or emergency services that a provider determined was medically necessary, or

(C) The enrollee, in the absence of a provider recommendation under subparagraph (A) or the receipt of urgent care or emergency services by a provider under subparagraph (B), has been seen by an in-plan provider for the diagnosis or treatment of the medical condition for which the enrollee seeks independent review. The plan shall expedite access to an in-plan provider upon request of an enrollee. The in-plan provider need not recommend the disputed health care service as a condition for the enrollee to be eligible for an independent review.

For purposes of this article, the enrollee's provider may be an out-of-plan provider. However, the plan shall have no liability for payment of services provided by an out-of-plan provider, except as provided pursuant to subdivision (b) of Section 1374.34.

(2) The disputed health care service has been denied, modified, or delayed by the plan, or by one of its contracting providers, based in whole or in part on a decision that the health care service is not medically necessary.

(3) The enrollee has filed a grievance with the plan or its contracting provider pursuant to Section 1368, and the disputed decision is upheld or the grievance remains unresolved after 30 days. The enrollee shall not be required to participate in the plan's grievance process for more than 30 days. In the case of a grievance

that requires expedited review pursuant to Section 1368.01, the enrollee shall not be required to participate in the plan's grievance process for more than three days.

(k) An enrollee may apply to the department for an independent medical review of a decision to deny, modify, or delay health care services, based in whole or in part on a finding that the disputed health care services are not medically necessary, within six months of any of the qualifying periods or events under subdivision (j). The director may extend the application deadline beyond six months if the circumstances of a case warrant the extension.

(*l*) The enrollee shall pay no application or processing fees of any kind.

(m) As part of its notification to the enrollee regarding a disposition of the enrollee's grievance that denies, modifies, or delays health care services, the plan shall provide the enrollee with a one-page application form approved by the department, and an addressed envelope, which the enrollee may return to initiate an independent medical review. The plan shall include on the form any information required by the department to facilitate the completion of the independent medical review, such as the enrollee's diagnosis or condition, the nature of the disputed health care service sought by the enrollee, a means to identify the enrollee's case, and any other material information. The form shall also include the following:

(1) Notice that a decision not to participate in the independent medical review process may cause the enrollee to forfeit any statutory right to pursue legal action against the plan regarding the disputed health care service.

(2) A statement indicating the enrollee's consent to obtain any necessary medical records from the plan, any of its contracting providers, and any out-of-plan provider the enrollee may have consulted on the matter, to be signed by the enrollee.

(3) Notice of the enrollee's right to provide information or documentation, either directly or through the enrollee's provider, regarding any of the following:

(A) A provider recommendation indicating that the disputed health care service is medically necessary for the enrollee's medical condition.

(B) Medical information or justification that a disputed health care service, on an urgent care or emergency basis, was medically necessary for the enrollee's medical condition.

(C) Reasonable information supporting the enrollee's position that the disputed health care service is or was medically necessary for the enrollee's medical condition, including all information provided to the enrollee by the plan or any of its contracting providers, still in the possession of the enrollee, concerning a plan or provider decision regarding disputed health care services, and a copy of any materials the enrollee submitted to the plan, still in the possession of the

enrollee, in support of the grievance, as well as any additional material that the enrollee believes is relevant.

(n) Upon notice from the department that the health care service plan's enrollee has applied for an independent medical review, the plan or its contracting providers shall provide to the independent medical review organization designated by the department a copy of all of the following documents within three business days of the plan's receipt of the department's notice of a request by an enrollee for an independent review:

(1) (A) A copy of all of the enrollee's medical records in the possession of the plan or its contracting providers relevant to each of the following:

(i) The enrollee's medical condition.

(ii) The health care services being provided by the plan and its contracting providers for the condition.

(iii) The disputed health care services requested by the enrollee for the condition.

(B) Any newly developed or discovered relevant medical records in the possession of the plan or its contracting providers after the initial documents are provided to the independent medical review organization shall be forwarded immediately to the independent medical review organization. The plan shall concurrently provide a copy of medical records required by this subparagraph to the enrollee or the enrollee's provider, if authorized by the enrollee, unless the offer of medical records is declined or otherwise prohibited by law. The confidentiality of all medical record information shall be maintained pursuant to applicable state and federal laws.

(2) A copy of all information provided to the enrollee by the plan and any of its contracting providers concerning plan and provider decisions regarding the enrollee's condition and care, and a copy of any materials the enrollee or the enrollee's provider submitted to the plan and to the plan's contracting providers in support of the enrollee's request for disputed health care services. This documentation shall include the written response to the enrollee's grievance, required by paragraph (4) of subdivision (a) of Section 1368. The confidentiality of any enrollee medical information shall be maintained pursuant to applicable state and federal laws.

(3) A copy of any other relevant documents or information used by the plan or its contracting providers in determining whether disputed health care services should have been provided, and any statements by the plan and its contracting providers explaining the reasons for the decision to deny, modify, or delay disputed health care services on the basis of medical necessity. The plan shall concurrently provide a copy of documents required by this paragraph, except for any information found by the director to be legally privileged information, to the enrollee and the enrollee's provider. The department and the independent review organization shall maintain

the confidentiality of any information found by the director to be the proprietary information of the plan.

1374.31. (a) If there is an imminent and serious threat to the health of the enrollee, as specified in subdivision (c) of Section 1374.33, all necessary information and documents shall be delivered to an independent medical review organization within 24 hours of approval of the request for review. In reviewing a request for review, the department may waive the requirement that the enrollee follow the plan's grievance process in extraordinary and compelling cases, where the director finds that the enrollee has acted reasonably.

(b) The department shall expeditiously review requests and immediately notify the enrollee in writing as to whether the request for an independent medical review has been approved, in whole or in part, and, if not approved, the reasons therefor. The plan shall promptly issue a notification to the enrollee, after submitting all of the required material to the independent medical review organization, that includes an annotated list of documents submitted and offer the enrollee the opportunity to request copies of those documents from the plan. The department shall promptly approve enrollee requests whenever the enrollee's plan has agreed that the case is eligible for an independent medical review. The department shall not refer coverage decisions for independent review. To the extent an enrollee request for independent review is not approved by the department, the enrollee request shall be treated as an immediate request for the department to review the grievance pursuant to subdivision (b) of Section 1368.

(c) An independent medical review organization, specified in Section 1374.32, shall conduct the review in accordance with Section 1374.33 and any regulations or orders of the director adopted pursuant thereto. The organization's review shall be limited to an examination of the medical necessity of the disputed health care services and shall not include any consideration of coverage decisions or other contractual issues.

1374.32. (a) By January 1, 2001, the department shall contract with one or more independent medical review organizations in the state to conduct reviews for purposes of this article. The independent medical review organizations shall be independent of any health care service plan doing business in this state. The director may establish additional requirements, including conflict-of-interest standards, consistent with the purposes of this article, that an organization shall be required to meet in order to qualify for participation in the Independent Medical Review System and to assist the department in carrying out its responsibilities.

(b) The independent medical review organizations and the medical professionals retained to conduct reviews shall be deemed to be medical consultants for purposes of Section 43.98 of the Civil Code.

(c) The independent medical review organization, any experts it designates to conduct a review, or any officer, director, or employee of the independent medical review organization shall not have any material professional, familial, or financial affiliation, as determined by the director, with any of the following:

(1) The plan.

(2) Any officer, director, or employee of the plan.

(3) A physician, the physician's medical group, or the independent practice association involved in the health care service in dispute.

(4) The facility or institution at which either the proposed health care service, or the alternative service, if any, recommended by the plan, would be provided.

(5) The development or manufacture of the principal drug, device, procedure, or other therapy proposed by the enrollee whose treatment is under review, or the alternative therapy, if any, recommended by the plan.

(6) The enrollee or the enrollee's immediate family.

(d) In order to contract with the department for purposes of this article, an independent medical review organization shall meet all of the following requirements:

(1) The organization shall not be an affiliate or a subsidiary of, nor in any way be owned or controlled by, a health plan or a trade association of health plans. A board member, director, officer, or employee of the independent medical review organization shall not serve as a board member, director, or employee of a health care service plan. A board member, director, or officer of a health plan or a trade association of health plans shall not serve as a board member, director, officer, or employee of an independent medical review organization.

(2) The organization shall submit to the department the following information upon initial application to contract for purposes of this article and, except as otherwise provided, annually thereafter upon any change to any of the following information:

(A) The names of all stockholders and owners of more than 5 percent of any stock or options, if a publicly held organization.

(B) The names of all holders of bonds or notes in excess of one hundred thousand dollars ($100,000), if any.

(C) The names of all corporations and organizations that the independent medical review organization controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business.

(D) The names and biographical sketches of all directors, officers, and executives of the independent medical review organization, as well as a statement regarding any past or present relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care organization, provider

group, or board or committee of a plan, managed care organization, or provider group.

(E) (i) The percentage of revenue the independent medical review organization receives from expert reviews, including, but not limited to, external medical reviews, quality assurance reviews, and utilization reviews.

(ii) The names of any health care service plan or provider group for which the independent medical review organization provides review services, including, but not limited to, utilization review, quality assurance review, and external medical review. Any change in this information shall be reported to the department within five business days of the change.

(F) A description of the review process including, but not limited to, the method of selecting expert reviewers and matching the expert reviewers to specific cases.

(G) A description of the system the independent medical review organization uses to identify and recruit medical professionals to review treatment and treatment recommendation decisions, the number of medical professionals credentialed, and the types of cases and areas of expertise that the medical professionals are credentialed to review.

(H) A description of how the independent medical review organization ensures compliance with the conflict-of-interest provisions of this section.

(3) The organization shall demonstrate that it has a quality assurance mechanism in place that does the following:

(A) Ensures that the medical professionals retained are appropriately credentialed and privileged.

(B) Ensures that the reviews provided by the medical professionals are timely, clear, and credible, and that reviews are monitored for quality on an ongoing basis.

(C) Ensures that the method of selecting medical professionals for individual cases achieves a fair and impartial panel of medical professionals who are qualified to render recommendations regarding the clinical conditions and the medical necessity of treatments or therapies in question.

(D) Ensures the confidentiality of medical records and the review materials, consistent with the requirements of this section and applicable state and federal law.

(E) Ensures the independence of the medical professionals retained to perform the reviews through conflict-of-interest policies and prohibitions, and ensures adequate screening for conflicts-of-interest, pursuant to paragraph (5).

(4) Medical professionals selected by independent medical review organizations to review medical treatment decisions shall be physicians or other appropriate providers who meet the following minimum requirements:

(A) The medical professional shall be a clinician knowledgeable in the treatment of the enrollee's medical condition, knowledgeable about the proposed treatment, and familiar with guidelines and protocols in the area of treatment under review.

(B) Notwithstanding any other provision of law, the medical professional shall hold a nonrestricted license in the any state of the United States, and for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the condition or treatment under review. The independent medical review organization shall give preference to the use of a physician licensed in California as the reviewer, except when training and experience with the issue under review reasonably requires the use of an out-of-state reviewer.

(C) The medical professional shall have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restrictions, taken or pending by any hospital, government, or regulatory body.

(5) Neither the expert reviewer, nor the independent medical review organization, shall have any material professional, material familial, or material financial affiliation with any of the following:

(A) The plan or a provider group of the plan, except that an academic medical center under contract to the plan to provide services to enrollees may qualify as an independent medical review organization provided it will not provide the service and provided the center is not the developer or manufacturer of the proposed treatment.

(B) Any officer, director, or management employee of the plan.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the treatment.

(D) The institution at which the treatment would be provided.

(E) The development or manufacture of the treatment proposed for the enrollee whose condition is under review.

(F) The enrollee or the enrollee's immediate family.

(6) For purposes of this section, the following terms shall have the following meanings:

(A) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(B) "Material professional affiliation" means any physician-patient relationship, any partnership or employment relationship, a shareholder or similar ownership interest in a professional corporation, or any independent contractor arrangement that constitutes a material financial affiliation with any expert or any officer or director of the independent medical review organization. "Material professional affiliation" does not include affiliations that are limited to staff privileges at a health facility.

(C) "Material financial affiliation" means any financial interest of more than 5 percent of total annual revenue or total annual income of an independent medical review organization or individual to

which this subdivision applies. "Material financial affiliation" does not include payment by the plan to the independent medical review organization for the services required by this section, nor does "material financial affiliation" include an expert's participation as a contracting plan provider where the expert is affiliated with an academic medical center or a National Cancer Institute-designated clinical cancer research center.

(e) The department shall provide, upon the request of any interested person, a copy of all nonproprietary information, as determined by the director, filed with it by an independent medical review organization seeking to contract under this article. The department may charge a nominal fee to the interested person for photocopying the requested information.

1374.33. (a) Upon receipt of information and documents related to a case, the medical professional reviewer or reviewers selected to conduct the review by the independent medical review organization shall promptly review all pertinent medical records of the enrollee, provider reports, as well as any other information submitted to the organization as authorized by the department or requested from any of the parties to the dispute by the reviewers. If reviewers request information from any of the parties, a copy of the request and the response shall be provided to all of the parties. The reviewer or reviewers shall also review relevant information related to the criteria set forth in subdivision (b).

(b) Following its review, the reviewer or reviewers shall determine whether the disputed health care service was medically necessary based on the specific medical needs of the enrollee and any of the following:

(1) Peer-reviewed scientific and medical evidence regarding the effectiveness of the disputed service.

(2) Nationally recognized professional standards.

(3) Expert opinion.

(4) Generally accepted standards of medical practice.

(5) Treatments that are likely to provide a benefit to a patient for conditions for which other treatments are not clinically efficacious.

(c) The organization shall complete its review and make its determination in writing, and in layperson's terms to the maximum extent practicable, within 30 days of the receipt of the application for review and supporting documentation, or within less time as prescribed by the director. If the disputed health care service has not been provided and the enrollee's provider or the department certifies in writing that an imminent and serious threat to the health of the enrollee may exist, including, but not limited to, serious pain, the potential loss of life, limb, or major bodily function, or the immediate and serious deterioration of the health of the enrollee, the analyses and determinations of the reviewers shall be expedited and rendered within three days of the receipt of the information. Subject to the approval of the department, the deadlines for analyses and

determinations involving both regular and expedited reviews may be extended by the director for up to three days in extraordinary circumstances or for good cause.

(d) The medical professionals' analyses and determinations shall state whether the disputed health care service is medically necessary. Each analysis shall cite the enrollee's medical condition, the relevant documents in the record, and the relevant findings associated with the provisions of subdivision (b) to support the determination. If more than one medical professional reviews the case, the recommendation of the majority shall prevail. If the medical professionals reviewing the case are evenly split as to whether the disputed health care service should be provided, the decision shall be in favor of providing the service.

(e) The independent medical review organization shall provide the director, the plan, the enrollee, and the enrollee's provider with the analyses and determinations of the medical professionals reviewing the case, and a description of the qualifications of the medical professionals. The independent medical review organization shall keep the names of the reviewers confidential in all communications with entities or individuals outside the independent medical review organization, except in cases where the reviewer is called to testify and in response to court orders. If more than one medical professional reviewed the case and the result was differing determinations, the independent medical review organization shall provide each of the separate reviewer's analyses and determinations.

(f) The director shall immediately adopt the determination of the independent medical review organization, and shall promptly issue a written decision to the parties that shall be binding on the plan.

(g) After removing the names of the parties, including, but not limited to, the enrollee, all medical providers, the plan, and any of the insurer's employees or contractors, director decisions adopting a determination of an independent medical review organization shall be made available by the department to the public upon request, at the department's cost and after considering applicable laws governing disclosure of public records, confidentiality, and personal privacy.

1374.35. (a) After considering the results of a competitive bidding process and any other relevant information on program costs, the director shall establish a reasonable, per-case reimbursement schedule to pay the costs of independent medical review organization reviews, which may vary depending on the type of medical condition under review and on other relevant factors.

(b) The costs of the independent medical review system for enrollees shall be borne by health care service plans pursuant to an assessment fee system established by the director. In determining the amount to be assessed, the director shall consider all appropriations available for the support of this chapter, and existing fees paid to the department. The director may adjust fees upward or downward, on

a schedule set by the department, to address shortages or overpayments, and to reflect utilization of the independent review process.

SEC. 2. Article 3.5 (commencing with Section 10169) is added to Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read:

Article 3.5. Appeals Seeking Independent Medical Review

10169. (a) Commencing January 1, 2001, there is hereby established in the department the Independent Medical Review System.

(b) For the purposes of this chapter, "disputed health care service" means any health care service eligible for coverage and payment under a disability insurance contract that has been denied, modified, or delayed by a decision of the insurer, or by one of its contracting providers, in whole or in part due to a finding that the service is not medically necessary. A decision regarding a disputed health care service relates to the practice of medicine and is not a coverage decision. A disputed health care service does not include services provided by a group policy of vision-only or dental-only coverage, except to the extent that (1) the service involves the practice of medicine, or (2) is provided pursuant to a contract with a disability insurer. If an insurer, or one of its contracting providers, issues a decision denying, modifying, or delaying health care services, based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the insured, the statement of decision shall clearly specify the provision in the contract that excludes that coverage.

(c) For the purposes of this chapter, "coverage decision" means the approval or denial of health care services by an insurer, or by one of its contracting entities, substantially based on a finding that the provision of a particular service is included or excluded as a covered benefit under the terms and conditions of the disability insurance contract. A coverage decision does not encompass a plan or contracting provider decision regarding a disputed health care service.

(d) (1) All insured grievances involving a disputed health care service are eligible for review under the Independent Medical Review System if the requirements of this article are met. If the department finds that an insured grievance involving a disputed health care service does not meet the requirements of this article for review under the Independent Medical Review System, the insured request for review shall be treated as a request for the department to review the grievance. All other insured grievances, including grievances involving coverage decisions, remain eligible for review by the department.

(2) In any case in which an insured or provider asserts that a decision to deny, modify, or delay health care services was based, in

whole or in part, on consideration of medical necessity, the department shall have the final authority to determine whether the grievance is more properly resolved pursuant to an independent medical review as provided under this article.

(3) The department shall be the final arbiter when there is a question as to whether an insured grievance is a disputed health care service or a coverage decision. The department shall establish a process to complete an initial screening of an insured grievance. If there appears to be any medical necessity issue, the grievance shall be resolved pursuant to an independent medical review as provided under this article.

(e) Every disability insurance contract that is issued, amended, renewed, or delivered in this state on or after January 1, 2000, shall, effective, January 1, 2001, provide an insured with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the insurer, or by one of its contracting providers, if the decision was based in whole or in part on a finding that the proposed health care services are not medically necessary. For purposes of this article, an insured may designate an agent to act on his or her behalf. The provider may join with or otherwise assist the insured in seeking an independent medical review, and may advocate on behalf of the insured.

(f) Medicare beneficiaries enrolled in Medicare + Choice products shall not be excluded unless expressly preempted by federal law.

(g) The department may seek to integrate the quality of care and consumer protection provisions, including remedies, of the Independent Medical Review System with related dispute resolution procedures of other health care agency programs, including the Medicare program, in a way that minimizes the potential for duplication, conflict, and added costs. Nothing in this subdivision shall be construed to limit any rights conferred upon insureds under this chapter.

(h) The independent medical review process authorized by this article is in addition to any other procedures or remedies that may be available.

(i) No later than January 1, 2001, every insurer shall prominently display in every insurer member handbook or relevant informational brochure, in every insurance contract, on insured evidence of coverage forms, on copies of insurer procedures for resolving grievances, on letters of denials issued by either the insurer or its contracting organization, and on all written responses to grievances, information concerning the right of an insured to request an independent medical review in cases where the insured believes that health care services have been improperly denied, modified, or delayed by the plan, or by one of its contracting providers.

(j) An insurer may apply to the department for an independent medical review when all of the following conditions are met:

(1) (A) The insured's provider has recommended a health care service as medically necessary, or

(B) The insured has received urgent care or emergency services that a provider determined was medically necessary, or

(C) The insured, in the absence of a provider recommendation under subparagraph (A) or the receipt of urgent care or emergency services by a provider under subparagraph (B), has been seen by an in-plan provider for the diagnosis or treatment of the medical condition for which the insured seeks independent review. The insurer shall expedite access to an in-plan provider upon request of an insured. The in-plan provider need not recommend the disputed health care service as a condition for the insured to be eligible for an independent review.

For purposes of this article, the insured's provider may be an out-of-plan provider. However, the insurer shall have no liability for payment of services provided by an out-of-plan provider, except as provided pursuant to subdivision (b) of Section 10169.4.

(2) The disputed health care service has been denied, modified, or delayed by the insurer, or by one of its contracting providers, based in whole or in part on a decision that the health care service is not medically necessary.

(3) The insured has filed a grievance with the insurer or its contracting provider, and the disputed decision is upheld or the grievance remains unresolved after 30 days. The insured shall not be required to participate in the insurer's grievance process for more than 30 days. In the case of a grievance that requires expedited review, the insured shall not be required to participate in the insurer's grievance process for more than three days.

(k) An insured may apply to the department for an independent medical review of a decision to deny, modify, or delay health care services, based in whole or in part on a finding that the disputed health care services are not medically necessary, within six months of any of the qualifying periods or events under subdivision (j). The commissioner may extend the application deadline beyond six months if the circumstances of a case warrant the extension.

(*l*) The insured shall pay no application or processing fees of any kind.

(m) As part of its notification to the insured regarding a disposition of the insured's grievance that denies, modifies, or delays health care services, the insurer shall provide the insured with a one-page application form approved by the department, and an addressed envelope, which the insured may return to initiate an independent medical review. The insurer shall include on the form any information required by the department to facilitate the completion of the independent medical review, such as the insured's diagnosis or condition, the nature of the disputed health care service sought by the insured, a means to identify the insured's case, and any other material information. The form shall also include the following:

(1) Notice that a decision not to participate in the independent review process may cause the insured to forfeit any statutory right to pursue legal action against the insurer regarding the disputed health care service.

(2) A statement indicating the insured's consent to obtain any necessary medical records from the insurer, any of its contracting providers, and any out-of-plan provider the insured may have consulted on the matter, to be signed by the insured.

(3) Notice of the insured's right to provide information or documentation, either directly or through the insured's provider, regarding any of the following:

(A) A provider recommendation indicating that the disputed health care service is medically necessary for the insured's medical condition.

(B) Medical information or justification that a disputed health care service, on an urgent care or emergency basis, was medically necessary for the insured's medical condition.

(C) Reasonable information supporting the insured's position that the disputed health care service is or was medically necessary for the insured's medical condition, including all information provided to the insured by the insurer or any of its contracting providers, still in the possession of the insured, concerning an insurer or provider decision regarding disputed health care services, and a copy of any materials the insured submitted to the insurer, still in the possession of the insured, in support of the grievance, as well as any additional material that the insured believes is relevant.

(n) Upon notice from the department that the insured has applied for an independent medical review, the insurer or its contracting providers, shall provide to the independent medical review organization designated by the department a copy of all of the following documents within three business days of the insurer's receipt of the department's notice of a request by an insured for an independent review:

(1) (A) A copy of all of the insured's medical records in the possession of the insurer or its contracting providers relevant to each of the following:

(i) The insured's medical condition.

(ii) The health care services being provided by the insurer and its contracting providers for the condition.

(iii) The disputed health care services requested by the insured for the condition.

(B) Any newly developed or discovered relevant medical records in the possession of the insurer or its contracting providers after the initial documents are provided to the independent medical review organization shall be forwarded immediately to the independent medical review organization. The insurer shall concurrently provide a copy of medical records required by this subparagraph to the insured or the insured's provider, if authorized by the insured, unless

the offer of medical records is declined or otherwise prohibited by law. The confidentiality of all medical record information shall be maintained pursuant to applicable state and federal laws.

(2) A copy of all information provided to the insured by the insurer and any of its contracting providers concerning insurer and provider decisions regarding the insured's condition and care, and a copy of any materials the insured or the insured's provider submitted to the insurer and to the insurer's contracting providers in support of the insured's request for disputed health care services. This documentation shall include the written response to the insured's grievance. The confidentiality of any insured medical information shall be maintained pursuant to applicable state and federal laws.

(3) A copy of any other relevant documents or information used by the insurer or its contracting providers in determining whether disputed health care services should have been provided, and any statements by the insurer and its contracting providers explaining the reasons for the decision to deny, modify, or delay disputed health care services on the basis of medical necessity. The insurer shall concurrently provide a copy of documents required by this paragraph, except for any information found by the commissioner to be legally privileged information, to the insured and the insured's provider. The department and the independent review organization shall maintain the confidentiality of any information found by the commissioner to be the proprietary information of the insurer.

10169.1. (a) If there is an imminent and serious threat to the health of the insured, as specified in subdivision (c) of Section 10169.3, all necessary information and documents shall be delivered to an independent medical review organization within 24 hours of approval of the request for review. In reviewing a request for review, the department may waive the requirement that the insured follow the insurer's grievance process in extraordinary and compelling cases, where the commissioner finds that the insured has acted reasonably.

(b) The department shall expeditiously review requests and immediately notify the insured in writing as to whether the request for an independent medical review has been approved, in whole or in part, and, if not approved, the reasons therefor. The insurer shall promptly issue a notification to the insured, after submitting all of the required material to the independent medical review organization, that includes an annotated list of documents submitted and offer the insured the opportunity to request copies of those documents from the insurer. The department shall promptly approve insured requests whenever the insurer has agreed that the case is eligible for an independent medical review. The department shall not refer coverage decisions for independent review. To the extent an insured request for independent review is not approved by the department, the insured request shall be treated as an immediate request for the department to review the grievance.

(c) An independent medical review organization, specified in Section 10169.2, shall conduct the review in accordance with Section 10169.3 and any regulations or orders of the commissioner adopted pursuant thereto. The organization's review shall be limited to an examination of the medical necessity of the disputed health care services and shall not include any consideration of coverage decisions or other contractual issues.

10169.2. (a) By January 1, 2001, the department shall contract with one or more independent medical review organizations in the state to conduct reviews for purposes of this article. The independent medical review organizations shall be independent of any insurer doing business in this state. The commissioner may establish additional requirements, including conflict-of-interest standards, consistent with the purposes of this article, that an organization shall be required to meet in order to qualify for participation in the Independent Medical Review System and to assist the department in carrying out its responsibilities.

(b) The independent medical review organizations and the medical professionals retained to conduct reviews shall be deemed to be medical consultants for purposes of Section 43.98 of the Civil Code.

(c) The independent medical review organization, any experts it designates to conduct a review, or any officer, director, or employee of the independent medical review organization shall not have any material professional, familial, or financial affiliation, as determined by the commissioner, with any of the following:

(1) The insurer.

(2) Any officer, director, or employee of the insurer.

(3) A physician, the physician's medical group, or the independent practice association involved in the health care service in dispute.

(4) The facility or institution at which either the proposed health care service, or the alternative service, if any, recommended by the insurer, would be provided.

(5) The development or manufacture of the principal drug, device, procedure, or other therapy proposed by the insured whose treatment is under review, or the alternative therapy, if any, recommended by the insurer.

(6) The insured or the insured's immediate family.

(d) In order to contract with the department for purposes of this article, an independent medical review organization shall meet all of the following requirements:

(1) The organization shall not be an affiliate or a subsidiary of, nor in any way be owned or controlled by, an insurer or a trade association of insurers. A board member, director, officer, or employee of the independent medical review organization shall not serve as a board member, director, or employee of an insurer. A board member, director, or officer of an insurer or a trade association

of insurers shall not serve as a board member, director, officer, or employee of an independent medical review organization.

(2) The organization shall submit to the department the following information upon initial application to contract for purposes of this article and, except as otherwise provided, annually thereafter upon any change to any of the following information:

(A) The names of all stockholders and owners of more than 5 percent of any stock or options, if a publicly held organization.

(B) The names of all holders of bonds or notes in excess of one hundred thousand dollars ($100,000), if any.

(C) The names of all corporations and organizations that the independent medical review organization controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business.

(D) The names and biographical sketches of all directors, officers, and executives of the independent medical review organization, as well as a statement regarding any past or present relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care organization, provider group, or board or committee of a plan, managed care organization, or provider group.

(E) (i) The percentage of revenue the independent medical review organization receives from expert reviews, including, but not limited to, external medical reviews, quality assurance reviews, and utilization reviews.

(ii) The names of any insurer or provider group for which the independent medical review organization provides review services, including, but not limited to, utilization review, quality assurance review, and external medical review. Any change in this information shall be reported to the department within five business days of the change.

(F) A description of the review process including, but not limited to, the method of selecting expert reviewers and matching the expert reviewers to specific cases.

(G) A description of the system the independent medical review organization uses to identify and recruit medical professionals to review treatment and treatment recommendation decisions, the number of medical professionals credentialed, and the types of cases and areas of expertise that the medical professionals are credentialed to review.

(H) A description of how the independent medical review organization ensures compliance with the conflict-of-interest provisions of this section.

(3) The organization shall demonstrate that it has a quality assurance mechanism in place that does the following:

(A) Ensures that the medical professionals retained are appropriately credentialed and privileged.

(B) Ensures that the reviews provided by the medical professionals are timely, clear, and credible, and that reviews are monitored for quality on an ongoing basis.

(C) Ensures that the method of selecting medical professionals for individual cases achieves a fair and impartial panel of medical professionals who are qualified to render recommendations regarding the clinical conditions and the medical necessity of treatments or therapies in question.

(D) Ensures the confidentiality of medical records and the review materials, consistent with the requirements of this section and applicable state and federal law.

(E) Ensures the independence of the medical professionals retained to perform the reviews through conflict-of-interest policies and prohibitions, and ensures adequate screening for conflicts-of-interest, pursuant to paragraph (5).

(4) Medical professionals selected by independent medical review organizations to review medical treatment decisions shall be physicians or other appropriate providers who meet the following minimum requirements:

(A) The medical professional shall be a clinician knowledgeable in the treatment of the insured's medical condition, knowledgeable about the proposed treatment, and familiar with guidelines and protocols in the area of treatment under review.

(B) Notwithstanding any other provision of law, the medical professional shall hold a nonrestricted license in the any state of the United States, and for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the condition or treatment under review. The independent medical review organization shall give preference to the use of a physician licensed in California as the reviewer, except when training and experience with the issue under review reasonably requires the use of an out-of-state reviewer.

(C) The medical professional shall have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restrictions, taken or pending by any hospital, government, or regulatory body.

(5) Neither the expert reviewer, nor the independent medical review organization, shall have any material professional, material familial, or material financial affiliation with any of the following:

(A) The insurer or a provider group of the insurer, except that an academic medical center under contract to the insurer to provide services to insureds may qualify as an independent medical review organization provided it will not provide the service and provided the center is not the developer or manufacturer of the proposed treatment.

(B) Any officer, director, or management employee of the insurer.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the treatment.

(D) The institution at which the treatment would be provided.

(E) The development or manufacture of the treatment proposed for the insured whose condition is under review.

(F) The insured or the insured's immediate family.

(6) For purposes of this section, the following terms shall have the following meanings:

(A) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(B) "Material professional affiliation" means any physician-patient relationship, any partnership or employment relationship, a shareholder or similar ownership interest in a professional corporation, or any independent contractor arrangement that constitutes a material financial affiliation with any expert or any officer or director of the independent medical review organization. "Material professional affiliation" does not include affiliations that are limited to staff privileges at a health facility.

(C) "Material financial affiliation" means any financial interest of more than 5 percent of total annual revenue or total annual income of an independent medical review organization or individual to which this subdivision applies. "Material financial affiliation" does not include payment by the insurer to the independent medical review organization for the services required by this section, nor does "material financial affiliation" include an expert's participation as a contracting provider where the expert is affiliated with an academic medical center or a National Cancer Institute-designated clinical cancer research center.

(e) The department shall provide, upon the request of any interested person, a copy of all nonproprietary information, as determined by the commissioner, filed with it by an independent medical review organization seeking to contract under this article. The department may charge a nominal fee to the interested person for photocopying the requested information.

10169.3. (a) Upon receipt of information and documents related to a case, the medical professional reviewer or reviewers selected to conduct the review by the independent medical review organization shall promptly review all pertinent medical records of the insured, provider reports, as well as any other information submitted to the organization as authorized by the department or requested from any of the parties to the dispute by the reviewers. If reviewers request information from any of the parties, a copy of the request and the response shall be provided to all of the parties. The reviewer or reviewers shall also review relevant information related to the criteria set forth in subdivision (b).

(b) Following its review, the reviewer or reviewers shall determine whether the disputed health care service was medically

necessary based on the specific medical needs of the insured and any of the following:

(A) Peer-reviewed scientific and medical evidence regarding the effectiveness of the disputed service.

(B) Nationally recognized professional standards.

(C) Expert opinion.

(D) Generally accepted standards of medical practice.

(E) Treatments that are likely to provide a benefit to a patient for conditions for which other treatments are not clinically efficacious.

(c) The organization shall complete its review and make its determination in writing, and in layperson's terms to the maximum extent practicable, within 30 days of the receipt of the application for review and supporting documentation, or within less time as prescribed by the commissioner. If the disputed health care service has not been provided and the insured's provider or the department certifies in writing that an imminent and serious threat to the health of the insured may exist, including, but not limited to, serious pain, the potential loss of life, limb, or major bodily function, or the immediate and serious deterioration of the health of the insured, the analyses and determinations of the reviewers shall be expedited and rendered within three days of the receipt of the information. Subject to the approval of the department, the deadlines for analyses and determinations involving both regular and expedited reviews may be extended by the commissioner for up to three days in extraordinary circumstances or for good cause.

(d) The medical professionals' analyses and determinations shall state whether the disputed health care service is medically necessary. Each analysis shall cite the insured's medical condition, the relevant documents in the record, and the relevant findings associated with the provisions of subdivision (b) to support the determination. If more than one medical professional reviews the case, the recommendation of the majority shall prevail. If the medical professionals reviewing the case are evenly split as to whether the disputed health care service should be provided, the decision shall be in favor of providing the service.

(e) The independent medical review organization shall provide the director, the insurer, the insured, and the insured's provider with the analyses and determinations of the medical professionals reviewing the case, and a description of the qualifications of the medical professionals. The independent medical review organization shall keep the names of the reviewers confidential in all communications with entities or individuals outside the independent medical review organization, except in cases where the reviewer is called to testify and in response to court orders. If more than one medical professional reviewed the case and the result was differing determinations, the independent medical review organization shall provide each of the separate reviewer's analyses and determinations.

(f) The commissioner shall immediately adopt the determination of the independent medical review organization, and shall promptly issue a written decision to the parties that shall be binding on the insurer.

(g) After removing the names of the parties, including, but not limited to, the insured, all medical providers, the insurer, and any of the plan's employees or contractors, commissioner decisions adopting a determination of an independent medical review organization shall be made available by the department to the public upon request, at the department's cost and after considering applicable laws governing disclosure of public records, confidentiality, and personal privacy.

10169.5. (a) After considering the results of a competitive bidding process and any other relevant information on program costs, the commissioner shall establish a reasonable, per-case reimbursement schedule to pay the costs of independent medical review organization reviews, which may vary depending on the type of medical condition under review and on other relevant factors.

(b) The costs of the independent medical review system for insureds shall be borne by insurers pursuant to an assessment fee system established by the commissioner. In determining the amount to be assessed, the commissioner shall consider all appropriations available for the support of this article, and existing fees paid to the department. The commissioner may adjust fees upward or downward, on a schedule set by the department, to address shortages or overpayments, and to reflect utilization of the independent review process.

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.

CHAPTER 534

An act to add Section 1374.72 to the Health and Safety Code, and to add Section 10144.5 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

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

(1) Mental illness is real.

(2) Mental illness can be reliably diagnosed.

(3) Mental illness is treatable.

(4) Treatment of mental illness is cost-effective.

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

(1) There is increasing scientific evidence that severe mental illnesses, such as schizophrenia, bipolar disorders, and major depression, are as effectively treated with medications as other severe illnesses.

(2) Most private health insurance policies provide coverage for mental illness at levels far below coverage for other physical illnesses.

(3) Limitations in coverage for mental illness in private insurance policies have resulted in inadequate treatment for persons with these illnesses.

(4) Inadequate treatment causes relapse and untold suffering for individuals with mental illness and their families.

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

(1) Lack of adequate treatment and services for persons with mental illness has contributed significantly to homelessness, involvement with the criminal justice system, and other significant social problems experienced by individuals with mental illness and their families.

(2) The failure to provide adequate coverage for mental illnesses in private health insurance policies has resulted in significant increased expenditures for state and local governments.

(d) The Legislature further finds and declares that other states that have adopted mental illness parity legislation have experienced minimal additional costs if medically necessary services were well managed.

SEC. 2. Section 1374.72 is added to the Health and Safety Code, to read:

1374.72. (a) Every health care service plan contract issued, amended, or renewed on or after July 1, 2000, that provides hospital, medical, or surgical coverage shall provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child, as specified in subdivisions (d) and (e), under the same terms and conditions applied to other medical conditions, as specified in subdivision (c).

(b) These benefits shall include the following:

(1) Outpatient services.

(2) Inpatient hospital services.

(3) Partial hospital services.

(4) Prescription drugs, if the plan contract includes coverage for prescription drugs.

(c) The terms and conditions applied to the benefits required by this section, that shall be applied equally to all benefits under the plan contract, shall include, but not be limited to, the following:

(1) Maximum lifetime benefits.

(2) Copayments.

(3) Individual and family deductibles.

(d) For the purposes of this section, "severe mental illnesses" shall include:

(1) Schizophrenia.

(2) Schizoaffective disorder.

(3) Bipolar disorder (manic-depressive illness).

(4) Major depressive disorders.

(5) Panic disorder.

(6) Obsessive-compulsive disorder.

(7) Pervasive developmental disorder or autism.

(8) Anorexia nervosa.

(9) Bulimia nervosa.

(e) For the purposes of this section, a child suffering from, "serious emotional disturbances of a child" shall be defined as a child who (1) has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, that result in behavior inappropriate to the child's age according to expected developmental norms, and (2) who meets the criteria in paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(f) This section shall not apply to contracts entered into pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Division 9 of Part 3 of the Welfare and Institutions Code, between the State Department of Health Services and a health care service plan for enrolled Medi-Cal beneficiaries.

(g) (1) For the purpose of compliance with this section, a plan may provide coverage for all or part of the mental health services required by this section through a separate specialized health care service plan or mental health plan, and shall not be required to obtain an additional or specialized license for this purpose.

(2) A plan shall provide the mental health coverage required by this section in its entire service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, health care service plan contracts that provide benefits to enrollees through preferred provider contracting arrangements are not precluded from requiring enrollees who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health

services within those geographic areas served by specialized health care service plans or mental health plans.

(3) Notwithstanding any other provision of law, in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

SEC. 3. Section 10144.5 is added to the Insurance Code, to read:

10144.5. (a) Every policy of disability insurance that covers hospital, medical, or surgical expenses in this state that is issued, amended, or renewed on or after July 1, 2000, shall provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child, as specified in subdivisions (d) and (e), under the same terms and conditions applied to other medical conditions, as specified in subdivision (c).

(b) These benefits shall include the following:

(1) Outpatient services.

(2) Inpatient hospital services.

(3) Partial hospital services.

(4) Prescription drugs, if the policy or contract includes coverage for prescription drugs.

(c) The terms and conditions applied to the benefits required by this section that shall be applied equally to all benefits under the disability insurance policy shall include, but not be limited to, the following:

(1) Maximum lifetime benefits.

(2) Copayments and coinsurance.

(3) Individual and family deductibles.

(d) For the purposes of this section, "severe mental illnesses" shall include:

(1) Schizophrenia.

(2) Schizoaffective disorder.

(3) Bipolar disorder (manic-depressive illness).

(4) Major depressive disorders.

(5) Panic disorder.

(6) Obsessive-compulsive disorder.

(7) Pervasive developmental disorder or autism.

(8) Anorexia nervosa.

(9) Bulimia nervosa.

(e) For the purposes of this section, a child suffering from, "serious emotional disturbances of a child" shall be defined as a child who (1) has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, that result in behavior inappropriate to the child's age according to expected developmental norms, and (2) who meets the criteria in paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(f) (1) For the purpose of compliance with this section, a disability insurer may provide coverage for all or part of the mental health services required by this section through a separate specialized health care service plan or mental health plan, and shall not be required to obtain an additional or specialized license for this purpose.

(2) A disability insurer shall provide the mental health coverage required by this section in its entire in-state service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, disability insurers are not precluded from requiring insureds who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans.

(3) Notwithstanding any other provision of law, in the provision of benefits required by this section, a disability insurer may utilize case management, managed care, or utilization review.

(4) Any action that a disability insurer takes to implement this section, including, but not limited to, contracting with preferred provider organizations, shall not be deemed to be an action that would otherwise require licensure as a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(g) This section shall not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only insurance policies.

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.

CHAPTER 535

An act to add Chapter 15 (commencing with Section 4999) to Division 2 of the Business and Professions Code, to add Section 1348.8 to the Health and Safety Code, and to add Section 10279 to the Insurance Code, relating to health care services.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Chapter 15 (commencing with Section 4999) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 15. TELEPHONE MEDICAL ADVICE SERVICES

4999. (a) On and after January 1, 2000, no in-state or out-of-state business entity shall engage in the business of providing telephone medical advice services to a patient at a California address unless the business is registered with the Department of Consumer Affairs.

(b) Any in-state or out-of-state business entity required to be registered under subdivision (a) that submits proof of accreditation by the American Accreditation Healthcare Commission, URAC, the National Committee for Quality Assurance, the National Quality Health Council, or the Joint Commission on Accreditation of Healthcare Organizations shall be deemed provisionally registered by the board until the earlier of the following:

(1) December 31, 2000.

(2) The granting or denial of an application for registration pursuant to subdivision (a).

(c) This article shall not apply to individuals licensed pursuant to any other provision of this division who provide telephone medical advice that is incidental to the primary focus of their medical advice activities in their professional practices.

4999.1. Application for registration as an in-state or out-of-state telephone medical advice service shall be made on a form prescribed by the department, accompanied by the fee prescribed pursuant to Section 4999.5. The department shall make application forms available no later than July 1, 2000. Applications shall contain all of the following:

(a) The signature of the individual owner of the in-state or out-of-state telephone medical advice service, or of all of the partners if the service is a partnership, or of the president or secretary if the service is a corporation. The signature shall be accompanied by a resolution or other written communication identifying the individual whose signature is on the form as owner, partner, president, or secretary.

(b) The name under which the person applying for the in-state or out-of-state telephone medical advice service proposes to do business.

(c) The physical address, mailing address, and telephone number of the business entity.

(d) The designation of an agent for service of process in California.

(e) A list of all in-state or out-of-state staff providing telephone medical advice services that are required to be licensed, registered, or certified pursuant to this chapter. This list shall be submitted to the department on a quarterly basis on a form to be prescribed by the

department and shall include, but not be limited to, the name, address, state of licensure, category of license, and license number.

(f) The department shall be notified within 30 days of any change of name, location of business, corporate officer, or agent of service.

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000), as a dentist pursuant to Chapter 4 (commencing with Section 1600), as a dental hygienist pursuant to Section 1758 et seq., as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage, family and child counselor pursuant to Chapter 13 (commencing with Section 4980), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), as a chiropractor pursuant to the Chiropractic Initiative Act or as an osteopath pursuant to the Osteopathic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals as identified in subparagraph (A) that are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700).

(3) Ensuring that the telephone medical advice provided is consistent with good professional practice.

(4) Maintaining records of telephone medical advice services, including records of complaints, provided to patients in California for a period of at least five years.

(5) Complying with all directions and requests for information made by the department.

(b) To the extent permitted by Article VII of the California Constitution, the department may contract with a private nonprofit accrediting agency to evaluate the qualifications of applicants for registration pursuant to this chapter, and to make recommendations to the department.

4999.3. (a) The department may suspend, revoke, or otherwise discipline a registrant or deny an application for registration as an

in-state or out-of-state telephone medical advice service based on any of the following:

(1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.

(2) An act of dishonesty or fraud by the registrant or any employee of the registrant.

(3) The commission of any act, or being convicted of a crime, that constitutes grounds for denial or revocation of licensure pursuant to any provision of this division.

(b) The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted therein.

(c) Copies of any complaint against an in-state or out-of-state telephone medical advice service shall be forwarded to the Department of Managed Care.

(d) The department shall forward a copy of any complaint submitted to the department pursuant to this chapter to the entity that issued the license to the licensee involved in the advice provided to the patient.

4999.4. (a) Every registration issued to an in-state or out-of-state telephone medical advice service shall expire 24 months after the initial date of issuance.

(b) To renew an unexpired registration, the registrant shall, before the time at which the license registration would otherwise expire, apply for renewal on a form prescribed by the department, and pay the renewal fee authorized by Section 4999.5.

4999.5. The department may set fees for registration, as an in-state or out-of-state telephone medical advice service sufficient to pay the costs of administration of this chapter.

4999.6. The department may adopt, amend, or repeal any rules and regulations that are reasonably necessary to carry out this chapter.

4999.7. (a) Nothing in this section shall limit, preclude, or otherwise interfere with the practices of other persons licensed or otherwise authorized to practice, under any other provision of this division, telephone medical advice services consistent with the laws governing their respective scopes of practice, or licensed under the Osteopathic Initiative Act or the Chiropractic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(b) For the purposes of this section, "medical advice" means any activity that would require licensure under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

4999.8. (a) The department shall conduct a study of issues pertaining to the provision of telephone medical advice services provided by registered and provisionally registered telephone

medical advice services providers to patients in California by health care professionals licensed, certified, or registered in other states. All data required for the study shall be submitted to the department within 30 days of the end of each calendar quarter. The study shall be based upon information of telephone medical advice service activities occurring between January 1, 2000, and December 31, 2000. The study shall include, and not be limited to, all of the following:

(1) The number of complaints that were filed with the telephone medical advice service.

(2) The number of complaints that involved health care professionals licensed in other states.

(3) The number of complaints referred to licensing entities in California and other states.

(4) The disposition of complaints filed with the department pursuant to this chapter.

(5) Complaint information submitted by the Director of the Department of Managed Care pursuant to subdivision (b) of Section 1348.8.

(6) Any other information the department determines to be necessary to evaluate the impact of out-of-state licensees providing telephone medical advice services on the quality of care provided to patients in California.

(b) On or before March 1, 2001, the department shall deliver a report summarizing the findings of the study to both the Assembly Committee on Rules and the Senate Committee on Rules, which shall refer the report to appropriate policy committees. The report shall be prepared utilizing existing agency resources.

(c) The department shall conduct a study of issues pertaining to the provision of medical advice services provided by registered telephone medical advice services to patients in California by health care professionals licensed, certified, or registered in other states. All data required for the study shall be submitted to the department within 30 days of the end of each calendar quarter. The study shall be based upon information of telephone medical advice service activities occurring between January 1, 2001, and December 31, 2001, and shall include, but not limited to, the following:

(1) The number of complaints that were filed with the telephone medical advice service.

(2) The number of complaints that were filed with the department pursuant to this chapter.

(3) The number of complaints that involved health care professionals licensed in other states.

(4) The number of complaints referred to licensing entities in California and other states.

(5) The disposition of complaints filed with the department pursuant to this chapter.

(6) Complaint information submitted by the Director of the Department of Managed Care pursuant to subdivision (b) of Section 1348.8.

(7) Any other information the department determines to be necessary to evaluate the impact of out-of-state licensees providing telephone medical advice services on the quality of care provided to patients in California.

(d) On or before March 1, 2002, the department shall deliver a report summarizing the findings of the study to both the Assembly Committee on Rules and the Senate Committee on Rules, which shall refer the report to appropriate policy committees. The report shall be prepared from then existing agency resources.

4999.9. The director shall, on or before June 30, 2000, adopt emergency regulations to implement this chapter in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

The adoption of emergency regulations described in this section 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 section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for no more than 180 days.

SEC. 2. Section 1348.8 is added to the Health and Safety Code, to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant and are operating consistent with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and

Professions Code, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a dental hygienist pursuant to Section 1758 et seq. of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage, family and child counselor pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, as a chiropractor pursuant to the Chiropractic Initiative Act, or as an osteopath pursuant to the Osteopathic Initiative Act and operating consistent with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i) that are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and operating consistent with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the director.

(5) Requires that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the health care service plan's enrollees or subscribers in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the health care service plan shall, upon the request of the director, provide the records to the director within 10 days of the request.

(6) Ensures that the telephone medical advice services are provided consistent with good professional practice.

(b) The director shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

SEC. 3. Section 10279 is added to the Insurance Code, to read:

10279. (a) Every disability insurer that provides group or individual policies of disability, or both, that provides, operates, or contracts for, telephone medical advice services to its insureds shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant and are operating consistent with the laws governing their respective scopes of practice.

(3) Ensure that a physician and surgeon is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that the in-state or out-of-state telephone medical advice service designates an agent for service of process in California and files this designation with the commissioner.

(5) Require that the in-state or out-of-state telephone medical advice service makes and maintains records for a period of five years after the telephone medical advice services are provided, including, but not limited to, oral or written transcripts of all medical advice conversations with the disability insurer's insureds in California and copies of all complaints. If the records of telephone medical advice services are kept out of state, the insurer shall, upon the request of the director, provide the records to the director within 10 days of the request.

(6) Ensure that the telephone medical advice services are provided consistent with good professional practice.

(b) The commissioner shall forward to the Department of Consumer Affairs, within 30 days of the end of each calendar quarter, data regarding complaints filed with the department concerning telephone medical advice services.

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.

CHAPTER 536

An act to add Title 7 (commencing with Section 3428) to Part 1 of Division 4 of the Civil Code, relating to health care service plans.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. This act shall be known and may be cited as the Managed Health Care Insurance Accountability Act of 1999.

SEC. 2. (a) The Legislature finds and declares as follows:

(1) Based on the fundamental nature of the relationships involved, a health care service plan and all other managed care entities regulated under the Health and Safety Code are engaged in the business of insurance in this state as that term is defined for purposes of the McCarran-Ferguson Act (15 U.S.C. Sec. 1011 and following). Nothing in this act shall be construed to impose the regulatory requirements of the Insurance Code on health care service plans regulated by the Health and Safety Code.

(2) The state's interest in regulating the business of insurance as provided in this act is to protect insurance purchasers and their beneficiaries, including employees, their dependents and families, and any other patients covered by private employer-sponsored health and disability insurance, from the harm that may occur when insurance entities, including managed health care insurance entities, act improperly. To this end, health care providers rather than health care service plans and managed care entities are in charge of patient care.

(b) It is the intent of the Legislature in enacting this act to ensure that adequate state law remedies exist for all persons who are subject to the wrongful acts of those entities that contract to provide insurance for the life, health, and disability of California citizens. The existence of these remedies and the deterrent effects of these remedies are necessary to protect the health and safety of the residents of this state.

SEC. 3. Title 7 (commencing with Section 3428) is added to Part 1 of Division 4 of the Civil Code, to read:

TITLE 7. DUTY OF HEALTH CARE SERVICE PLANS AND MANAGED CARE ENTITIES

3428. (a) For services rendered on or after January 1, 2001, a health care service plan or managed care entity, as described in subdivision (f) of Section 1345 of the Health and Safety Code, shall have a duty of ordinary care to arrange for the provision of medically necessary health care service to its subscribers and enrollees, where

the health care service is a benefit provided under the plan, and shall be liable for any and all harm legally caused by its failure to exercise that ordinary care when both of the following apply:

(1) The failure to exercise ordinary care resulted in the denial, delay, or modification of the health care service recommended for, or furnished to, a subscriber or enrollee.

(2) The subscriber or enrollee suffered substantial harm.

(b) For purposes of this section: (1) substantial harm means loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, severe and chronic physical pain, or significant financial loss; (2) health care services need not be recommended or furnished by an in-plan provider, but may be recommended or furnished by any health care provider practicing within the scope of his or her practice; and (3) health care services shall be recommended or furnished at any time prior to the inception of the action, and the recommendation need not be made prior to the occurrence of substantial harm.

(c) Health care service plans and managed care entities are not health care providers under any provision of law, including, but not limited to, Section 6146 of the Business and Professions Code, Sections 3333.1 or 3333.2 of this code, or Sections 340.5, 364, 425.13, 667.7, or 1295 of the Code of Civil Procedure.

(d) A health care service plan or managed care entity shall not seek indemnity, whether contractual or equitable, from a provider for liability imposed under subdivision (a). Any provision to the contrary in a contract with providers is void and unenforceable.

(e) This section shall not create any liability on the part of an employer or an employer group purchasing organization that purchases coverage or assumes risk on behalf of its employees or on behalf of self-funded employee benefit plans.

(f) Any waiver by a subscriber or enrollee of the provisions of this section is contrary to public policy and shall be unenforceable and void.

(g) This section does not create any new or additional liability on the part of a health care service plan or managed care entity for harm caused that is attributable to the medical negligence of a treating physician or other treating health care provider.

(h) This section does not abrogate or limit any other theory of liability otherwise available at law.

(i) This section shall not apply in instances where subscribers or enrollees receive treatment by prayer, consistent with the provisions of subdivision (a) of Section 1270 of the Health and Safety Code, in lieu of medical treatment.

(j) Damages recoverable for a violation of this section include, but are not limited to, those set forth in Section 3333.

(k) (1) A person may not maintain a cause of action pursuant to this section against any entity required to comply with any independent medical review system or independent review system

required by law unless the person or his or her representative has exhausted the procedures provided by the applicable independent review system.

(2) Compliance with paragraph (1) is not required in a case where either of the following applies:

(A) Substantial harm, as defined in subdivision (b), has occurred prior to the completion of the applicable review.

(B) Substantial harm, as defined, in subdivision (b), will imminently occur prior to the completion of the applicable review.

(3) This subdivision shall become operative only if Senate Bill 189 and Assembly Bill 55 of the 1999–2000 Regular Session are also enacted and enforceable.

(*l*) If any provision of this section or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid or unenforceable, the remainder of the section and the application of those provisions to other persons or circumstances shall not be affected thereby.

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.

CHAPTER 537

An act to amend Section 1367.65 of, and to repeal and add Section 1367.6 of, the Health and Safety Code, and to amend Section 10123.81 of, and to repeal and add Section 10123.8 of, the Insurance Code, relating to health.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1367.6 of the Health and Safety Code is repealed.

SEC. 2. Section 1367.6 is added to the Health and Safety Code, to read:

1367.6. (a) Every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, shall provide coverage for screening for, diagnosis of, and treatment for, breast cancer.

(b) No health care service plan contract shall deny enrollment or coverage to an individual solely due to a family history of breast cancer, or who has had one or more diagnostic procedures for breast disease but has not developed or been diagnosed with breast cancer.

(c) Every health care service plan contract shall cover screening and diagnosis of breast cancer, consistent with generally accepted medical practice and scientific evidence, upon the referral of the enrollee's participating physician.

(d) Treatment for breast cancer under this section shall include coverage for prosthetic devices or reconstructive surgery to restore and achieve symmetry for the patient incident to a mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the copayment, or deductible and coinsurance conditions, that are applicable to the mastectomy and all other terms and conditions applicable to other benefits.

(e) As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

(f) As used in this section, "prosthetic devices" means the provision of initial and subsequent devices pursuant to an order of the patient's physician and surgeon.

SEC. 3. Section 1367.65 of the Health and Safety Code is amended to read:

1367.65. (a) On or after January 1, 2000, every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed shall be deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

(b) Nothing in this section shall be construed to prevent application of copayment or deductible provisions in a plan, nor shall this section be construed to require that a plan be extended to cover any other procedures under an individual or a group health care service plan contract. Nothing in this section shall be construed to authorize a plan enrollee to receive the services required to be covered by this section if those services are furnished by a nonparticipating provider, unless the plan enrollee is referred to that provider by a participating physician, nurse practitioner, or certified nurse midwife providing care.

SEC. 4. Section 10123.8 of the Insurance Code is repealed.

SEC. 5. Section 10123.8 is added to the Insurance Code, to read:

10123.8. (a) Every policy of disability insurance that provides coverage for hospital, medical, or surgical expenses, that is issued, amended, delivered, or renewed on or after January 1, 2000, shall provide coverage for screening for, diagnosis of, and treatment for, breast cancer.

(b) No policy of disability insurance that provides coverage for hospital, medical, or surgical expenses shall deny enrollment or coverage to an individual solely due to a family history of breast cancer, or who has had one or more diagnostic procedures for breast disease but has not developed or been diagnosed with breast cancer.

(c) Every policy of disability insurance shall cover screening and diagnosis of breast cancer, consistent with generally accepted medical practice and scientific evidence, upon the referral of the insured's participating physician.

(d) Treatment for breast cancer under this section shall include coverage for prosthetic devices or reconstructive surgery to restore and achieve symmetry for the patient incident to a mastectomy. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits.

(e) As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

(f) As used in this section, "prosthetic devices" means the provision of initial and subsequent devices pursuant to an order of the patient's physician and surgeon.

(g) For purposes of this section, disability insurance does not include accident only, credit, disability income, specified disease and hospital confinement indemnity, coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

SEC. 6. Section 10123.81 of the Insurance Code is amended to read:

10123.81. On or after January 1, 2000, every individual or group policy of disability insurance or self-insured employee welfare benefit plan that is issued, amended, or renewed, shall be deemed to provide coverage for at least the following, upon the referral of a nurse practitioner, certified nurse midwife, or physician, providing care to the patient and operating within the scope of practice provided under existing law for breast cancer screening or diagnostic purposes:

(a) A baseline mammogram for women age 35 to 39, inclusive.

(b) A mammogram for women age 40 to 49, inclusive, every two years or more frequently based on the women's physician's recommendation.

(c) A mammogram every year for women age 50 and over.

Nothing in this section shall be construed to require an individual or group policy to cover the surgical procedure known as mastectomy or to prevent application of deductible or copayment provisions contained in the policy or plan, nor shall this section be construed to require that coverage under an individual or group policy be extended to any other procedures.

Nothing in this section shall be construed to authorize an insured or plan member to receive the coverage required by this section if that coverage is furnished by a nonparticipating provider, unless the insured or plan member is referred to that provider by a participating physician, nurse practitioner, or certified nurse midwife providing care.

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.

CHAPTER 538

An act to add Section 10123.196 to the Insurance Code, relating to disability insurance.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. This act shall be known and may be cited as the Women's Contraception Equity Act.

SEC. 2. Section 10123.196 is added to the Insurance Code, to read:

10123.196. (a) Every individual and group policy of disability insurance issued, amended, renewed, or delivered on or after January 1, 2000, that provides coverage for hospital, medical, or surgical expenses, shall provide coverage for the following, under the same terms and conditions as applicable to all benefits:

(1) A disability insurance policy that provides coverage for outpatient prescription drug benefits shall include coverage for a variety of federal Food and Drug Administration (FDA) approved prescription contraceptive methods, as designated by the insurer. If an insured's health care provider determines that none of the methods designated by the disability insurer is medically appropriate for the insured's medical or personal history, the insurer shall, in the alternative, provide coverage for some other FDA approved

prescription contraceptive method prescribed by the patient's health care provider.

(2) Outpatient prescription coverage with respect to an insured shall be identical for an insured's covered spouse and covered nonspouse dependents.

(b) Nothing in this section shall be construed to deny or restrict in any way any existing right or benefit provided under law or by contract.

(c) Nothing in this section shall be construed to require an individual or group disability insurance policy to cover experimental or investigational treatments.

(d) Notwithstanding any other provision of this section, a religious employer may request a disability insurance policy without coverage for contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, a disability insurance policy shall be provided without coverage for contraceptive methods.

(1) For purposes of this section, a "religious employer" is an entity for which each of the following is true:

(A) The inculcation of religious values is the purpose of the entity.

(B) The entity primarily employs persons who share the religious tenets of the entity.

(C) The entity serves primarily persons who share the religious tenets of the entity.

(D) The entity is a nonprofit organization pursuant to Section 6033(a)(2)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended.

(2) Every religious employer that invokes the exemption provided under this section shall provide written notice to any prospective employee once an offer of employment has been made, and prior to that person commencing that employment, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(e) Nothing in this section shall be construed to exclude coverage for prescription contraceptive supplies ordered by a health care provider with prescriptive authority for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for prescription contraception that is necessary to preserve the life or health of an insured.

(f) This section shall only apply to disability insurance policies or contracts that are defined as health benefit plans pursuant to subdivision (a) of Section 10198.6, except that for accident only, specified disease, or hospital indemnity coverage, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. Nothing in this section

shall be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

CHAPTER 539

An act to add Section 1367.01 to, and to repeal and add Section 1363.5 of, the Health and Safety Code, to add Section 10123.135 to the Insurance Code, and to add Section 14087.41 to the Welfare and Institutions Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

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

(1) Consumers have the right to receive quality medical care in a timely and efficient manner.

(2) Decisions about medical care should be made by physicians and other relevant health care professionals.

(3) Consumers have the right to know how and why a decision about their medical care is made.

(b) "Utilization review," otherwise known as "internal review," is the process by which health care service plans and disability insurers review, and approve, modify, or deny, requests for treatment of patients by physicians, and the Legislature recognizes that it is an integral component of the total process by which consumers access health care services.

(c) It is the intent of the Legislature to establish sound consumer protections applicable to the internal review processes of health care service plans and disability insurers, with the goal of providing faster, more accessible, and better quality medical care to patients.

SEC. 2. Section 1363.5 of the Health and Safety Code is repealed.

SEC. 3. Section 1363.5 is added to the Health and Safety Code, to read:

1363.5. (a) A plan shall disclose or provide for the disclosure to the director and to network providers the process the plan, its contracting provider groups, or any entity with which the plan contracts for services that include utilization review or utilization management functions, uses to authorize, modify, or deny health care services under the benefits provided by the plan, including coverage for subacute care, transitional inpatient care, or care provided in skilled nursing facilities. A plan shall also disclose those processes to enrollees or persons designated by an enrollee, or to any other person or organization, upon request.

(b) The criteria or guidelines used by plans, or any entities with which plans contract for services that include utilization review or utilization management functions, to determine whether to authorize, modify, or deny health care services shall:

(1) Be developed with involvement from actively practicing health care providers.

(2) Be consistent with sound clinical principles and processes.

(3) Be evaluated, and updated if necessary, at least annually.

(4) If used as the basis of a decision to modify, delay, or deny services in a specified case under review, be disclosed to the provider and the enrollee in that specified case.

(5) Be available to the public upon request. A plan shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. A plan may charge reasonable fees to cover administrative expenses related to disclosing criteria or guidelines pursuant to this paragraph, limited to copying and postage costs. The plan may also make the criteria or guidelines available through electronic communication means.

(c) The disclosure required by paragraph (5) of subdivision (b) shall be accompanied by the following notice: "The materials provided to you are guidelines used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract."

SEC. 4. Section 1367.01 is added to the Health and Safety Code, to read:

1367.01. (a) Every health care service plan and any entity with which it contracts for services that include utilization review or utilization management functions, that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, or that delegates these functions to medical groups or independent practice associations or to other contracting providers, shall comply with this section.

(b) A health care service plan that is subject to this section shall have written policies and procedures establishing the process by which the plan prospectively, retrospectively, or concurrently reviews and approves, modifies, or delays or denies, based in whole or in part on medical necessity, requests by providers of health care services for plan enrollees. These policies and procedures shall ensure that decisions based on the medical necessity of proposed health care services are consistent with criteria or guidelines that are supported by clinical principles and processes developed pursuant to Section 1363.5. These policies and procedures, and a description of the process by which the plan reviews and approves, modifies, delays, or denies requests by providers prior to, retrospectively, or

concurrent with, the provision of health care services to enrollees, shall be filed with the director for review and approval, and shall be disclosed by the plan to providers and enrollees upon request, and by the plan to the public upon request.

(c) Every health care service plan subject to this section shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act, or, if the plan is a specialized health care service plan, a clinical director with California licensure in a clinical area appropriate to the type of care provided by the specialized health care service plan. The medical director or clinical director shall ensure that the process by which the plan reviews and approves, modifies, or denies, based in whole or in part on medical necessity, requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, complies with the requirements of this section.

(d) If health plan personnel, or individuals under contract to the plan to review requests by providers, approve the provider's request, pursuant to subdivision (b), the decision shall be communicated to the provider pursuant to subdivision (h).

(e) No individual, other than a licensed physician or a licensed health care professional, as required by Section 733, 2052.1, or 2052.2 of the Business and Professions Code, who is competent to evaluate the specific clinical issues involved in the health care services requested by the provider, may deny or modify requests for authorization of health care services for an enrollee for reasons of medical necessity. The decision of the physician or other health care professional shall be communicated to the provider and the enrollee pursuant to subdivision (h).

(f) The criteria or guidelines used by the health care service plan to determine whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, shall be consistent with clinical principles and processes developed pursuant to the requirements of Section 1363.5.

(g) If the health care service plan requests medical information from providers in order to determine whether to approve, modify, or deny requests for authorization, the plan shall request only the information reasonably necessary to make the determination.

(h) In determining whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, based in whole or in part on medical necessity, every health care service plan subject to this section shall meet the following requirements:

(1) Decisions to approve, modify, or deny, based on medical necessity, requests by providers prior to, or concurrent with, the provision of health care services to enrollees that do not meet the

requirements for the 72-hour review required by paragraph (2), shall be made in a timely fashion appropriate for the nature of the enrollee's condition, not to exceed five business days from the plan's receipt of the information reasonably necessary and requested by the plan to make the determination. In cases where the review is retrospective, the decision shall be communicated to the individual who received services, or to the individual's designee, within 30 days of the receipt of information that is reasonably necessary to make this determination, and shall be communicated to the provider in a manner that is consistent with current law. For purposes of this section, retrospective reviews shall be for care rendered on or after January 1, 2000.

(2) When the enrollee's condition is such that the enrollee faces an imminent and serious threat to his or her health including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decisionmaking process, as described in paragraph (1), would be detrimental to the enrollee's life or health or could jeopardize the enrollee's ability to regain maximum function, decisions to approve, modify, or deny requests by providers prior to, or concurrent with, the provision of health care services to enrollees, shall be made in a timely fashion appropriate for the nature of the enrollee's condition, not to exceed 72 hours after the plan's receipt of the information reasonably necessary and requested by the plan to make the determination. Nothing in this section shall be construed to alter the requirements of subdivision (b) of Section 1371.4. Notwithstanding Section 1371.4, the requirements of this division shall be applicable to all health plans and other entities conducting utilization review or utilization management.

(3) Decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to enrollees shall be communicated to the requesting provider within 24 hours of the decision. Except for concurrent review decisions pertaining to care that is underway, which shall be communicated to the enrollee's treating provider within 24 hours, decisions resulting in denial, delay, or modification of all or part of the requested health care service shall be communicated to the enrollee in writing within two business days of the decision. In the case of concurrent review, care shall not be discontinued until the enrollee's treating provider has been notified of the plan's decision, and a care plan has been agreed upon by the treating provider that is appropriate for the medical needs of that patient.

(4) Communications regarding decisions to approve requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, shall specify the specific health care service approved. Responses regarding decisions to deny, delay, or modify health care services requested by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees, shall be communicated to the enrollee in

writing and to providers initially by telephone, except with regard to decisions rendered retrospectively, and then in writing, and shall include a clear and concise explanation of the reasons for the plan's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity. Any written communication to a physician or other health care provider of a denial, delay, or modification of a request shall include the name and telephone number of the health care professional responsible for the denial, delay, or modification. The telephone number provided shall be a direct number or an extension, to allow the physician or health care provider easily to contact the professional responsible for the denial, delay, or modification. Responses shall also include information as to how the enrollee may file a grievance with the plan pursuant to Section 1368, and in the case of Medi-Cal enrollees, shall explain how to request an administrative hearing and aid paid pending under Sections 51014.1 and 51014.2 of Title 22 of the California Code of Regulations.

(5) If the health care service plan cannot make a decision to approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2) because the plan is not in receipt of all of the information reasonably necessary and requested, or because the plan requires consultation by an expert reviewer, or because the plan has asked that an additional examination or test be performed upon the enrollee, provided the examination or test is reasonable and consistent with good medical practice, the plan shall, immediately upon the expiration of the timeframe specified in paragraph (1) or (2) or as soon as the plan becomes aware that it will not meet the timeframe, whichever occurs first, notify the provider and the enrollee, in writing, that the plan cannot make a decision to approve, modify, or deny the request for authorization within the required timeframe, and specify the information requested but not received, or the expert reviewer to be consulted, or the additional examinations or tests required. The plan shall also notify the provider and enrollee of the anticipated date on which a decision may be rendered. Upon receipt of all information reasonably necessary and requested by the plan, the plan shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2), whichever applies.

(6) If the director determines that a health care service plan has failed to meet the timeframes specified in paragraph (1) or (2), whichever applies, or has failed to meet any other requirement of this section, the director may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice to, an opportunity for a hearing with regard to, the person affected, in accordance with subdivision (a) of Section 1397. The administrative penalties shall not be deemed an exclusive remedy for the director. These penalties shall be paid to the State Managed Care Fund.

(i) Every health care service plan subject to this section shall maintain telephone access for providers to request authorization for health care services.

(j) Every health care service plan subject to this section that reviews requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees shall establish, as part of the quality assurance program required by Section 1370, a process by which the plan's compliance with this section is assessed and evaluated. The process shall include provisions for evaluation of complaints, assessment of trends, implementation of actions to correct identified problems, mechanisms to communicate actions and results to the appropriate health plan employees and contracting providers, and provisions for evaluation of any corrective action plan and measurements of performance.

(k) The director shall review a health care service plan's compliance with this section as part of its periodic onsite medical survey of each plan undertaken pursuant to Section 1380, and shall include a discussion of compliance with this section as part of its report issued pursuant to that section.

(*l*) This section shall not apply to decisions made for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of religion as set forth in subdivision (a) of Section 1270.

(m) Nothing in this section shall cause a health care service plan to be defined as a health care provider for purposes of any provision of law, including, but not limited to, Section 6146 of the Business and Professions Code, Sections 3333.1 and 3333.2 of the Civil Code, and Sections 340.5, 364, 425.13, 667.7, and 1295 of the Code of Civil Procedure.

SEC. 5. Section 10123.135 is added to the Insurance Code, to read:

10123.135. (a) Every disability insurer, or an entity with which it contracts for services that include utilization review or utilization management functions, that covers hospital, medical, or surgical expenses and that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, or that delegates these functions to medical groups or independent practice associations or to other contracting providers, shall comply with this section.

(b) A disability insurer that is subject to this section, or any entity with which an insurer contracts for services that include utilization review or utilization management functions, shall have written policies and procedures establishing the process by which the insurer prospectively, retrospectively or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity requests by providers of health care services for insureds. These policies and procedures shall ensure that decisions based on

medical necessity of a proposed health care service are consistent with criteria or guidelines that are supported by clinical principles and processes developed pursuant to subdivision (f). These policies and procedures, and a description of the process by which an insurer or any entities with which insurers contract for services that include utilization review or utilization management function, reviews and approves, modifies, or denies requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, shall be filed with the commissioner, and shall be disclosed by the insurer to insureds and providers upon request, and by the insurer to the public upon request.

(c) If the number of insureds covered under health benefit plans in this state that are issued by an insurer subject to this section constitute at least 50 percent of the number of insureds covered under health benefit plans issued nationwide by that insurer, the insurer shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or the Osteopathic Act, or the insurer may employ a clinical director licensed in California whose scope of practice under California law includes the right to independently perform all those services covered by the insurer. The medical director or clinical director shall ensure that the process by which the insurer reviews and approves, modifies, or denies, based in whole or in part on medical necessity requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, complies with the requirements of this section. Nothing in this subdivision shall be construed as restricting the existing authority of the Medical Board of California.

(d) If an insurer subject to this section, or individuals under contract to the insurer to review requests by providers, approve the provider's request pursuant to subdivision (b), the decision shall be communicated to the provider pursuant to subdivision (h).

(e) No individual, other than a licensed physician or a licensed health care professional, as required by Sections 733, 2052.1, or 2052.2 of the Business and Professions Code who is competent to evaluate the specific clinical issues involved in the health care services requested by the provider, may deny or modify requests for authorization of health care services for an insured for reasons of medical necessity. The decision of the physician or other health care provider shall be communicated to the provider and the insured pursuant to subdivision (h).

(f) (1) An insurer shall disclose or provide for the disclosure to the commissioner and to network providers, the process the insurer, its contracting provider groups, or any entity with which it contracts for services that include utilization review or utilization management functions, uses to authorize, modify, or deny health care services under the benefits provided by the insurance contract, including

coverage for subacute care, transitional inpatient care, or care provided in skilled nursing facilities. An insurer shall also disclose those processes to policyholders or persons designated by a policyholder, or to any other person or organization, upon request.

(2) The criteria or guidelines used by insurers, or any entities with which insurers contract for utilization review or utilization management functions, to determine whether to authorize, modify, or deny health care services shall:

(A) Be developed with involvement from actively practicing health care providers.

(B) Be consistent with sound clinical principles and processes.

(C) Be evaluated, and updated if necessary, at least annually.

(D) If used as the basis of a decision to modify, delay, or deny services in a specified case under review, be disclosed to the provider and the policyholder in that specified case.

(E) Be available to the public upon request. An insurer shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. An insurer may charge reasonable fees to cover administrative expenses related to disclosing criteria or guidelines pursuant to this paragraph, limited to copying and postage costs. The insurer may also make the criteria or guidelines available through electronic communication means.

(3) The disclosure require by subparagraph (E) of paragraph (2) shall be accompanied by the following notice: "The materials provided to you are guidelines used by this insurer to authorize, modify, or deny health care benefits for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your insurance contract.

(g) If an insurer subject to this section requests medical information from providers in order to determine whether to approve, modify, or deny requests for authorization, the insurer shall request only the information reasonably necessary to make the determination.

(h) In determining whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, based in whole or in part on medical necessity, every insurer subject to this section shall meet the following requirements:

(1) Decisions to approve, modify, or deny, based on medical necessity, requests by providers prior to, or concurrent with, the provision of health care services to insureds that do not meet the requirements for the 72-hour review required by paragraph (2), shall be made in a timely fashion appropriate for the nature of the insured's condition, not to exceed five business days from the insurer's receipt of the information reasonably necessary and requested by the insurer to make the determination. In cases where the review is retrospective, the decision shall be communicated to

the individual who received services, or to the individual's designee, within 30 days of the receipt of information that is reasonably necessary to make this determination, and shall be communicated to the provider in a manner that is consistent with current law. For purposes of this section, retrospective reviews shall be for care rendered on or after January 1, 2000.

(2) When the insured's condition is such that the insured faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decisionmaking process, as described in paragraph (1), would be detrimental to the insured's life or health or could jeopardize the insured's ability to regain maximum function, decisions to approve, modify, or deny requests by providers prior to, or concurrent with, the provision of health care services to insureds shall be made in a timely fashion, appropriate for the nature of the insured's condition, but not to exceed 72 hours after the insurer's receipt of the information reasonably necessary and requested by the insurer to make the determination.

(3) Decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to insureds shall be communicated to the requesting provider within 24 hours of the decision. Except for concurrent review decisions pertaining to care that is underway, which shall be communicated to the insured's treating provider within 24 hours, decisions resulting in denial, delay, or modification of all or part of the requested health care service shall be communicated to the insured in writing within two business days of the decision. In the case of concurrent review, care shall not be discontinued until the insured's treating provider has been notified of the insurer's decision and a care plan has been agreed upon by the treating provider that is appropriate for the medical needs of that patient.

(4) Communications regarding decisions to approve requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, shall specify the specific health care service approved. Responses regarding decisions to deny, delay, or modify health care services requested by providers prior to, retrospectively, or concurrent with, the provision of health care services to insureds, shall be communicated to insureds in writing to providers initially by telephone except with regard to decisions rendered retrospectively and then in writing, shall include a clear and concise explanation of the reasons for the insurer's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity. Any written communication to a physician or other health care provider of a denial, delay, or modification or a request shall include the name and telephone number of the health care professional responsible for the denial, delay, or modification. The telephone number provided shall be a direct number or an extension, to allow the physician or health

care provider easily to contact the professional responsible for the denial, delay, or modification. Responses shall also include information as to how the provider or the insured may file an appeal with the insurer or seek department review under the unfair practices provisions of Article 6.5 (commencing with Section 790) of Chapter 1 of Part 7 of Division 1 and the regulations adopted thereunder.

(5) If the insurer cannot make a decision to approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2) because the insurer is not in receipt of all of the information reasonably necessary and requested, or because the insurer requires consultation by an expert reviewer, or because the insurer has asked that an additional examination or test be performed upon the insured, provided that the examination or test is reasonable and consistent with good medical practice, the insurer shall, immediately upon the expiration of the timeframe specified in paragraph (1) or (2), or as soon as the insurer becomes aware that it will not meet the timeframe, whichever occurs first, notify the provider and the insured, in writing, that the insurer cannot make a decision to approve, modify, or deny the request for authorization within the required timeframe, and specify the information requested but not received, or the expert reviewer to be consulted, or the additional examinations or tests required. The insurer shall also notify the provider and enrollee of the anticipated date on which a decision may be rendered. Upon receipt of all information reasonably necessary and requested by the insurer, the insurer shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2), whichever applies.

(6) If the commissioner determines that an insurer has failed to meet the timeframes specified in paragraph (1) or (2), whichever applies, or has failed to meet any other requirement of this section, the commissioner may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice to, an opportunity for a hearing with regard to, the person affected. The administrative penalties shall not be deemed an exclusive remedy for the commissioner. These penalties shall be paid to the State Insurance Fund.

(i) Every insurer subject to this section shall maintain telephone access for providers to request authorization for health care services.

(j) Nothing in this section shall cause a disability insurer to be defined as a health care provider for purposes of any provision of law, including, but not limited to, Section 6146 of the Business and Professions Code, Sections 3333.1 and 3333.2 of the Civil Code, and Sections 340.5, 364, 425.13, 667.7, and 1295 of the Code of Civil Procedure.

SEC. 6. Section 14087.41 is added to the Welfare and Institutions Code, to read:

14087.41. The department shall develop a simple form, consistent with the notice requirements of Sections 51014.1 and 51014.2 of Title 22 of the California Code of Regulations, for Medi-Cal managed care plans to use to notify a Medi-Cal enrollee of a denial, termination, delay, or modification in benefits. The department shall require all Medi-Cal managed care plans to use the form as a condition of participation in Medi-Cal managed care pursuant to any contract negotiated after the effective date of this section.

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.

CHAPTER 540

An act to add Section 1367.51 to the Health and Safety Code, and to add Section 10176.61 to the Insurance Code, relating to health insurance.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1367.51 is added to the Health and Safety Code, to read:

1367.51. (a) Every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, and that covers hospital, medical, or surgical expenses shall include coverage for the following equipment and supplies for the management and treatment of insulin-using diabetes, non-insulin-using diabetes, and gestational diabetes as medically necessary, even if the items are available without a prescription:

(1) Blood glucose monitors and blood glucose testing strips.

(2) Blood glucose monitors designed to assist the visually impaired.

(3) Insulin pumps and all related necessary supplies.

(4) Ketone urine testing strips.

(5) Lancets and lancet puncture devices.

(6) Pen delivery systems for the administration of insulin.

(7) Podiatric devices to prevent or treat diabetes-related complications.

(8) Insulin syringes.

(9) Visual aids, excluding eyewear, to assist the visually impaired with proper dosing of insulin.

(b) Every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, that covers prescription benefits shall include coverage for the following prescription items if the items are determined to be medically necessary:

(1) Insulin.

(2) Prescriptive medications for the treatment of diabetes.

(3) Glucagon.

(c) The copayments and deductibles for the benefits specified in subdivisions (a) and (b) shall not exceed those established for similar benefits within the given plan.

(d) Every plan shall provide coverage for diabetes outpatient self-management training, education, and medical nutrition therapy necessary to enable an enrollee to properly use the equipment, supplies, and medications set forth in subdivisions (a) and (b), and additional diabetes outpatient self-management training, education, and medical nutrition therapy upon the direction or prescription of those services by the enrollee's participating physician. If a plan delegates outpatient self-management training to contracting providers, the plan shall require contracting providers to ensure that diabetes outpatient self-management training, education, and medical nutrition therapy are provided by appropriately licensed or registered health care professionals.

(e) The diabetes outpatient self-management training, education, and medical nutrition therapy services identified in subdivision (d) shall be provided by appropriately licensed or registered health care professionals as prescribed by a participating health care professional legally authorized to prescribe the service.

(f) The copayments for the benefits specified in subdivision (d) shall not exceed those established for physician office visits by the plan.

(g) Every health care service plan governed by this section shall disclose the benefits covered pursuant to this section in the plan's evidence of coverage and disclosure forms.

(h) A health care service plan may not reduce or eliminate coverage as a result of the requirements of this section.

SEC. 2. Section 10176.61 is added to the Insurance Code, to read:

10176.61. (a) Every insurer issuing, amending, delivering, or renewing a disability insurance policy on or after January 1, 2000, that covers hospital, medical, or surgical expenses shall include coverage for the following equipment and supplies for the management and treatment of insulin-using diabetes, non-insulin-using diabetes, and gestational diabetes as medically necessary even if the items are available without a prescription:

(1) Blood glucose monitors and blood glucose testing strips.

(2) Blood glucose monitors designed to assist the visually impaired.

(3) Insulin pumps and all related necessary supplies.

(4) Ketone urine testing strips.

(5) Lancets and lancet puncture devices.

(6) Pen delivery systems for the administration of insulin.

(7) Podiatric devices to prevent or treat diabetes-related complications.

(8) Insulin syringes.

(9) Visual aids, excluding eyewear, to assist the visually impaired with proper dosing of insulin.

(b) Every insurer issuing, amending, delivering, or renewing a disability insurance policy on or after January 1, 2000, that covers prescription benefits shall include coverage for the following prescription items if the items are determined to be medically necessary:

(1) Insulin.

(2) Prescriptive medications for the treatment of diabetes.

(3) Glucagon.

(c) The coinsurances and deductibles for the benefits specified in subdivisions (a) and (b) shall not exceed those established for similar benefits within the given policy.

(d) Every insurer shall provide coverage for diabetes outpatient self-management training, education, and medical nutrition therapy necessary to enable an insured to properly use the equipment, supplies, and medications set forth in subdivisions (a) and (b) and additional diabetes outpatient self-management training, education, and medical nutrition therapy upon the direction or prescription of those services by the insured's participating physician. If an insurer delegates outpatient self-management training to contracting providers, the insurer shall require contracting providers to ensure that diabetes outpatient self-management training, education, and medical nutrition therapy are provided by appropriately licensed or registered health care professionals.

(e) The diabetes outpatient self-management training, education, and medical nutrition therapy services identified in subdivision (d) shall be provided by appropriately licensed or registered health care professionals as prescribed by a health care professional legally authorized to prescribe the services.

(f) The coinsurances and deductibles for the benefits specified in subdivision (d) shall not exceed those established for physician office visits by the insurer.

(g) Every disability insurer governed by this section shall disclose the benefits covered pursuant to this section in the insurer's evidence of coverage and disclosure forms.

(h) An insurer may not reduce or eliminate coverage as a result of the requirements of this section.

(i) This section does not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident-only, specified disease, and hospital indemnity insurance coverage, benefits under this section only apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy. Nothing in this section may be construed as imposing a new benefit mandate on accident-only, specified disease, or hospital indemnity insurance.

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.

CHAPTER 541

An act to add Section 1374.56 to the Health and Safety Code, and to add Section 10123.89 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1374.56 is added to the Health and Safety Code, to read:

1374.56. (a) On and after July 1, 2000, every health care service plan contract, except a specialized health care service plan contract, issued, amended, delivered, or renewed in this state that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of phenylketonuria (PKU) under the terms and conditions of the plan contract.

(b) Coverage for treatment of phenylketonuria (PKU) shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and managed by a health care professional in consultation with a physician who specializes in the treatment of metabolic disease and who participates in or is authorized by the plan, provided that the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of phenylketonuria (PKU).

(c) Coverage pursuant to this section is not required except to the extent that the cost of the necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products for use at home that are prescribed by a physician or nurse practitioner, or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of phenylketonuria (PKU).

(2) "Special food product" means a food product that is both of the following:

(A) Prescribed by a physician or nurse practitioner for the treatment of phenylketonuria (PKU) and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the treatment and care of, phenylketonuria (PKU). It does not include a food that is naturally low in protein, but may include a food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

SEC. 2. Section 10123.89 is added to the Insurance Code, immediately following Section 10123.87, to read:

10123.89. (a) On and after July 1, 2000, every policy of disability insurance issued, amended, delivered, or renewed in this state that provides coverage for hospital, medical, or surgical expenses shall provide coverage for the testing and treatment of phenylketonuria (PKU) under the terms and conditions of the policy.

(b) Coverage for treatment of phenylketonuria (PKU) shall include those formulas and special food products that are part of a diet prescribed by a licensed physician and managed by a health care professional in consultation with a physician who specializes in the treatment of metabolic disease and who participates in or is authorized by the insurer, provided that the diet is deemed medically necessary to avert the development of serious physical or mental disabilities or to promote normal development or function as a consequence of phenylketonuria (PKU).

(c) Coverage pursuant to this section is not required except to the extent that the cost of necessary formulas and special food products exceeds the cost of a normal diet.

(d) For purposes of this section, the following definitions shall apply:

(1) "Formula" means an enteral product or enteral products for use at home that are prescribed by a physician or nurse practitioner, or ordered by a registered dietician upon referral by a health care provider authorized to prescribe dietary treatments, as medically necessary for the treatment of phenylketonuria (PKU).

(2) "Special food product" means a food product that is both of the following:

(A) Prescribed by a physician or nurse practitioner for the treatment of phenylketonuria (PKU) and is consistent with the recommendations and best practices of qualified health professionals with expertise germane to, and experience in the treatment and care of, phenylketonuria (PKU). It does not include a food that is naturally low in protein, but may include a food product that is specially formulated to have less than one gram of protein per serving.

(B) Used in place of normal food products, such as grocery store foods, used by the general population.

(e) This section shall not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident only, specified disease, or hospital indemnity coverage, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. Nothing in this section shall be construed as imposing a new benefit mandate on accident only, specified disease, or hospital indemnity insurance.

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.

CHAPTER 542

An act to amend Section 1368.01 of, to amend, repeal, and add Sections 1368, 1368.03, 1368.04, and 1370.4 of, and to add Sections 1374.34 and 1374.36 to, the Health and Safety Code, and to amend, repeal, and add Section 10145.3 of the Insurance Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for grievances to be given to subscribers and enrollees who wish to register written grievances. The forms used by plans licensed pursuant to Section 1353 shall be approved by the commissioner in advance as to format.

(4) Provide subscribers and enrollees with written responses to grievances, with a clear and concise explanation of the reasons for the plan's response. For grievances involving the delay, denial, or modification of health care services, the plan response shall describe the criteria used and the clinical reasons for its decision, including all criteria and clinical reasons related to medical necessity. If a plan, or one of its contracting providers, issues a determination delaying, denying, or modifying health care services based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the decision shall clearly specify the provisions in the contract that exclude that coverage.

(5) Keep in its files all copies of grievances, and the responses thereto, for a period of five years.

(b) (1) (A) After either completing the grievance process described in subdivision (a), or participating in the process for at least 30 days, a subscriber or enrollee may submit the grievance to the department for review. In any case determined by the department to be a case involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, the potential loss of life, limb, or major bodily function, or in any other case where the department determines that an earlier review is warranted, a subscriber or enrollee shall not be required to complete the grievance process or participate in the process for at least 30 days before submitting a grievance to the department for review.

(B) A grievance may be submitted to the department for review and resolution prior to any arbitration.

(C) Notwithstanding subparagraphs (A) and (B), the department may refer any grievance that does not pertain to compliance with this chapter to the State Department of Health Services, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the parent, guardian, conservator, relative, or other designee of the subscriber or enrollee, as appropriate, may submit the grievance to the department as the agent of the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a subscriber or enrollee, or the agent, to submit the grievance to the department. In addition, following submission of the grievance to the department, the subscriber or enrollee, or the agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee. For purposes of this section, a "relative" includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother, sister, uncle, or aunt of the subscriber or enrollee.

(3) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by the agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance, or who are otherwise assisting or advocating on behalf of the subscriber or enrollee.

(4) The department shall send a written notice of the final disposition of the grievance, and the reasons therefor, to the subscriber or enrollee, the agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 30 calendar days of receipt of the request for review unless the commissioner, in his or her discretion, determines that additional time is reasonably necessary to fully and fairly evaluate the relevant grievance.

(5) Distribution of the written notice shall not be deemed a waiver of any exemption or privilege under existing law, including, but not limited to, Section 6254.5 of the Government Code, for any information in connection with and including the written notice, nor shall any person employed or in any way retained by the department be required to testify as to that information or notice.

(6) The commissioner shall establish and maintain a system of aging of grievances that are pending and unresolved for 30 days or more, that shall include a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more.

(7) A subscriber or enrollee, or the agent acting on behalf of a subscriber or enrollee, may also request voluntary mediation with the plan prior to exercising the right to submit a grievance to the department. The use of mediation services shall not preclude the right to submit a grievance to the department upon completion of mediation. In order to initiate mediation, the subscriber or enrollee, or the agent acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The department shall have no

administrative or enforcement responsibilities in connection with the voluntary mediation process authorized by this paragraph.

(c) The plan's grievance system shall include a system of aging of grievances that are pending and unresolved for 30 days or more. The plan shall provide a quarterly report to the commissioner of grievances pending and unresolved for 30 or more days with separate categories of grievances for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the commissioner:

> "Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, grievances pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the commissioner shall include this statement in a written report made available to the public and prepared by the commissioner that describes or compares grievances that are pending and unresolved with the plan for 30 days or more. Additionally, the commissioner shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why grievances described in that written report are pending and unresolved for 30 days or more. The commissioner shall not be required to include a statement or append a brief explanation to a written report that the commissioner is required to prepare under this chapter, including Sections 1380 and 1397.5.

(d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance or resolution procedures authorized by this section shall be in addition to any other procedures that may be available to any person, and failure to pursue, exhaust, or engage in the procedures described in this section shall not preclude the use of any other remedy provided by law.

(e) Nothing in this section shall be construed to allow the submission to the department of any provider complaint under this section. However, as part of a provider's duty to advocate for medically appropriate health care for his or her patients pursuant to Sections 510 and 2056 of the Business and Professions Code, nothing in this subdivision shall be construed to prohibit a provider from contacting and informing the department about any concerns he or she has regarding compliance with or enforcement of this chapter.

(f) Upon the operation of the Department of Managed Care and the appointment of its director, the responsibilities of the Department of Corporations and its commissioner shall be transferred to the Department of Managed Care and its director.

(g) If Assembly Bill 55 of the 1999–2000 Regular Session is enacted, this section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Section 1368 is added to the Health and Safety Code, to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for grievances to be given to subscribers and enrollees who wish to register written grievances. The forms used by plans licensed pursuant to Section 1353 shall be approved by the director in advance as to format.

(4) Provide subscribers and enrollees with written responses to grievances, with a clear and concise explanation of the reasons for the plan's response. For grievances involving the delay, denial, or modification of health care services, the plan response shall describe the criteria used and the clinical reasons for its decision, including all criteria and clinical reasons related to medical necessity. If a plan, or one of its contracting providers, issues a decision delaying, denying, or modifying health care services based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the decision shall clearly specify the provisions in the contract that exclude that coverage.

(5) Keep in its files all copies of grievances, and the responses thereto, for a period of five years.

(b) (1) (A) After either completing the grievance process described in subdivision (a), or participating in the process for at least 30 days, a subscriber or enrollee may submit the grievance to the department for review. In any case determined by the department to be a case involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, the potential loss of life, limb, or major bodily function, or in any other case where the department determines that an earlier review is warranted, a subscriber or enrollee shall not be required to complete the grievance process or participate in the process for at least 30 days before submitting a grievance to the department for review.

(B) A grievance may be submitted to the department for review and resolution prior to any arbitration.

(C) Notwithstanding subparagraphs (A) and (B), the department may refer any grievance that does not pertain to compliance with this chapter to the State Department of Health Services, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the parent, guardian, conservator, relative, or other designee of the subscriber or enrollee, as appropriate, may submit the grievance to the department as the agent of the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a subscriber or enrollee, or the agent, to submit the grievance to the department. In addition, following submission of the grievance to the department, the subscriber or enrollee, or the agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee. For purposes of this section, a "relative" includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother, sister, uncle, or aunt of the subscriber or enrollee.

(3) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by the agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance or who are otherwise assisting or advocating on behalf of the subscriber or enrollee. If after reviewing the record, the department concludes that the grievance, in whole or in part, is eligible for review under the independent medical review system established pursuant to Article 12 (commencing with Section 1374.30), the department shall immediately notify the subscriber or enrollee, or agent, of that option and shall, if requested orally or in writing, shall assist the subscriber or enrollee in participating in the independent medical review system.

(4) If after reviewing the record of a grievance, the department concludes that a health care service eligible for coverage and payment under a health care service plan contract has been delayed, denied, or modified by a plan, or by one of its contracting providers, in whole or in part due to a determination that the service is not medically necessary, and that determination was not communicated to the enrollee in writing along with a notice of the enrollee's potential right to participate in the independent medical review system, as required by this chapter, the director shall, by order, assess administrative penalties. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice of, and the opportunity for, a hearing with regard to the person affected in accordance with Section 1397. The administrative penalties shall not be deemed an exclusive remedy available to the

director. These penalties shall be paid to the State Managed Care Fund.

(5) The department shall send a written notice of the final disposition of the grievance, and the reasons therefor, to the subscriber or enrollee, the agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 30 calendar days of receipt of the request for review unless the director, in his or her discretion, determines that additional time is reasonably necessary to fully and fairly evaluate the relevant grievance. In any case not eligible for the independent medical review system established pursuant to Article 12 (commencing with Section 1374.30), the department's written notice shall include, at a minimum, the following:

(A) A summary of its findings and the reasons why the department found the plan to be, or not to be, in compliance with any applicable laws, regulations, or orders of the director.

(B) A discussion of the department's contact with any medical provider, or any other independent expert relied on by the department, along with a summary of the views and qualifications of that provider or expert.

(C) If the enrollee's grievance is sustained in whole or part, information about any corrective action taken.

(6) In any department review of a grievance involving a disputed health care service, as defined in subdivision (b) of Section 1374.30, that is not eligible for the independent medical review system established pursuant to Article 12 (commencing with Section 1374.30), in which the department finds that the plan has delayed, denied, or modified health care services that are medically necessary, based on the specific medical circumstances of the enrollee, and those services are a covered benefit under the terms and conditions of the health care service plan contract, the department's written notice shall either: (A) Order the plan to promptly offer and provide those health care services to the enrollee, or (B) Order the plan to promptly reimburse the enrollee for any reasonable costs associated with urgent care or emergency services, or other extraordinary and compelling health care services, when the department finds that the enrollee's decision to secure those services outside of the plan network was reasonable under the circumstances. The department's order shall be binding on the plan.

(7) Distribution of the written notice shall not be deemed a waiver of any exemption or privilege under existing law, including, but not limited to, Section 6254.5 of the Government Code, for any information in connection with and including the written notice, nor shall any person employed or in any way retained by the department be required to testify as to that information or notice.

(8) The director shall establish and maintain a system of aging of grievances that are pending and unresolved for 30 days or more, that

shall include a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more.

(9) A subscriber or enrollee, or the agent acting on behalf of a subscriber or enrollee, may also request voluntary mediation with the plan prior to exercising the right to submit a grievance to the department. The use of mediation services shall not preclude the right to submit a grievance to the department upon completion of mediation. In order to initiate mediation, the subscriber or enrollee, or the agent acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The department shall have no administrative or enforcement responsibilities in connection with the voluntary mediation process authorized by this paragraph.

(c) The plan's grievance system shall include a system of aging of grievances that are pending and unresolved for 30 days or more. The plan shall provide a quarterly report to the director of grievances pending and unresolved for 30 or more days with separate categories of grievances for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the director:

> "Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, grievances pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the director shall include this statement in a written report made available to the public and prepared by the director that describes or compares grievances that are pending and unresolved with the plan for 30 days or more. Additionally, the director shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why grievances described in that written report are pending and unresolved for 30 days or more. The director shall not be required to include a statement or append a brief explanation to a written report that the director is required to prepare under this chapter, including Sections 1380 and 1397.5.

(d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance or resolution procedures authorized by this section shall be in addition to any other procedures that may be available to any person, and failure to pursue, exhaust, or engage in the procedures described in this section shall not preclude the use of any other remedy provided by law.

(e) Nothing in this section shall be construed to allow the submission to the department of any provider grievance under this

section. However, as part of a provider's duty to advocate for medically appropriate health care for his or her patients pursuant to Sections 510 and 2056 of the Business and Professions Code, nothing in this subdivision shall be construed to prohibit a provider from contacting and informing the department about any concerns he or she has regarding compliance with or enforcement of this chapter.

(f) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 3. Section 1368.01 of the Health and Safety Code is amended to read:

1368.01. (a) The grievance system shall require the plan to resolve grievances within 30 days.

(b) The grievance system shall include a requirement for expedited plan review of grievances for cases involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, potential loss of life, limb, or major bodily function. When the plan has notice of a case requiring expedited review, the grievance system shall require the plan to immediately inform enrollees and subscribers in writing of their right to notify the department of the grievance. The grievance system shall also require the plan to provide enrollees, subscribers, and the department with a written statement on the disposition or pending status of the grievance no later than three days from receipt of the grievance.

SEC. 4. Section 1368.03 of the Health and Safety Code is amended to read:

1368.03. (a) The department may require enrollees and subscribers to participate in a plan's grievance process for up to 30 days before pursuing a grievance through the department. However, the department may not impose this waiting period for expedited review cases covered by subdivision (b) of Section 1368.01 or in any other case where the department determines that an earlier review is warranted.

(b) Notwithstanding subdivision (a), the department may refer any grievance issue that does not pertain to compliance with this chapter to the State Department of Health Services, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(c) Upon the operation of the Department of Managed Care, the responsibilities of the Department of Corporations pursuant to this section shall be transferred to the Department of Managed Care.

(d) If Assembly Bill 55 of the 1999–2000 Regular Session is enacted, 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. 5. Section 1368.03 is added to the Health and Safety Code, to read:

1368.03. (a) The department may require enrollees and subscribers to participate in a plan's grievance process for up to 30 days before pursuing a grievance through the department or the independent medical review system. However, the department may not impose this waiting period for expedited review cases covered by subdivision (b) of Section 1368.01 or in any other case where the department determines that an earlier review is warranted.

(b) Notwithstanding subdivision (a), the department may refer any grievance issue that does not pertain to compliance with this chapter to the State Department of Health Services, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(c) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 6. Section 1368.04 of the Health and Safety Code is amended to read:

1368.04. (a) The commissioner shall investigate and take enforcement action against plans regarding grievances reviewed and found by the department to involve plan noncompliance with the requirements of this chapter. The commissioner shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(b) The commissioner may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties, if the commissioner determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, any of the following:

(1) Repeated failure to act promptly and reasonably to investigate and resolve grievances in accordance with Section 1368.01.

(2) Repeated failure to act promptly and reasonably to resolve grievances when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(c) The administrative penalties available to the commissioner pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the commissioner to enforce this chapter.

(d) The administrative penalties authorized pursuant to this section shall be paid to the State Corporations Fund.

(e) Upon the operation of the Department of Managed Care and the appointment of its director, the responsibilities of the Department of Corporations and its commissioner shall be transferred to the Department of Managed Care and its director.

(f) If Assembly Bill 55 of the 1999–2000 Regular Session is enacted, 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. 7. Section 1368.04 is added to the Health and Safety Code, to read:

1368.04. (a) The director shall investigate and take enforcement action against plans regarding grievances reviewed and found by the department to involve noncompliance with the requirements of this chapter, including grievances that have been reviewed pursuant to the independent medical review system established pursuant to Article 12 (commencing with Section 1374.30). Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director shall, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing with regard to the person affected in accordance with Section 1397. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the State Managed Care Fund. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(b) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(1) Repeated failure to act promptly and reasonably to investigate and resolve grievances in accordance with Section 1368.01.

(2) Repeated failure to act promptly and reasonably to resolve grievances when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(c) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(d) The administrative penalties authorized pursuant to this section shall be paid to the State Managed Care Fund.

(e) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 8. Section 1370.4 of the Health and Safety Code is amended to read:

1370.4. (a) Every health care service plan shall provide an external, independent review process to examine the plan's coverage decisions regarding experimental or investigational therapies for individual enrollees who meet all of the following criteria:

(1) (A) The enrollee has a life-threatening or seriously debilitating condition.

(B) For purposes of this section, "life-threatening" means either or both of the following:

(i) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted.

(ii) Diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(C) For purposes of this section, "seriously debilitating" means diseases or conditions that cause major irreversible morbidity.

(2) The enrollee's physician certifies that the enrollee has a condition, as defined in paragraph (1), for which standard therapies have not been effective in improving the condition of the enrollee, for which standard therapies would not be medically appropriate for the enrollee, or for which there is no more beneficial standard therapy covered by the plan than the therapy proposed pursuant to paragraph (3).

(3) Either (A) the enrollee's physician, who is under contract with or employed by the plan, has recommended a drug, device, procedure or other therapy that the physician certifies in writing is likely to be more beneficial to the enrollee than any available standard therapies, or (B) the enrollee, or the enrollee's physician who is a licensed, board-certified or board-eligible physician qualified to practice in the area of practice appropriate to treat the enrollee's condition, has requested a therapy that, based on two documents from the medical and scientific evidence, as defined in subdivision (d), is likely to be more beneficial for the enrollee than any available standard therapy. The physician certification pursuant to this subdivision shall include a statement of the evidence relied upon by the physician in certifying his or her recommendation. Nothing in this subdivision shall be construed to require the plan to pay for the services of a nonparticipating physician provided pursuant to this subdivision, that are not otherwise covered pursuant to the plan contract.

(4) The enrollee has been denied coverage by the plan for a drug, device, procedure or other therapy recommended or requested pursuant to paragraph (3).

(5) The specific drug, device, procedure or other therapy recommended pursuant to paragraph (3) would be a covered service, except for the plan's determination that the therapy is experimental or investigational.

(6) This section shall not apply to any Medi-Cal beneficiary enrolled in a health care service plan under the plan's contract with the Medi-Cal program.

(b) The plan's external, independent review shall meet the following criteria:

(1) The plan shall offer all enrollees who meet the criteria in subdivision (a) the opportunity to have the requested therapy reviewed under the external, independent review process. The plan shall notify eligible enrollees in writing of the opportunity to request

the external independent review within five business days of the decision to deny coverage.

(2) The department shall contract with one or more impartial, independent entities that are accredited pursuant to subdivision (c). The entity shall arrange for review of the coverage decision of the plan by selecting an independent panel of at least three physicians or other providers who are experts in the treatment of the enrollee's medical condition and knowledgeable about the recommended therapy. If the entity is an academic medical center accredited in accordance with subdivision (e), the independent panel may include experts affiliated with or employed by the entity. A panel of two experts may be arranged at the plan's request, provided the enrollee consents in writing. The independent entity may arrange for a panel of one expert only if the independent entity certifies in writing that there is only one expert qualified and able to review the recommended therapy. Neither the plan nor the enrollee shall choose or control the choice of the physician or other provider experts.

(3) Neither the expert, nor the independent entity, nor any officer, director, or management employee of the independent entity may have any material professional, familial, or financial affiliation, as defined in paragraph (4), with any of the following:

(A) The plan.

(B) Any officer, director, or management employee of the plan.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the therapy.

(D) The institution at which the therapy would be provided.

(E) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the enrollee whose treatment is under review.

(4) For purposes of this section, the following terms have the following meanings:

(A) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(B) "Material professional affiliation" means any physician-patient relationship, any partnership or employment relationship, a shareholder or similar ownership interest in a professional corporation, or any independent contractor arrangement that constitutes a material financial affiliation with any expert or any officer or director of the independent entity. The term "material professional affiliation" does not include affiliations that are limited to staff privileges at a health facility.

(C) "Material financial affiliation" means any financial interest of more than 5 percent of total annual revenue or total annual income of an entity or individual to which this subdivision applies. "Material financial affiliation" does not include payment by the plan to the independent entity for the services required by this section, nor does "material financial affiliation" include an expert's participation as a

contracting plan provider where the expert is affiliated with an academic medical center or a National Cancer Institute-designated clinical cancer research center.

(5) The enrollee shall not be required to pay for the external, independent review. The costs of the review shall be borne by the plan. The plan shall reimburse the department for any costs associated with contracting with any independent entity pursuant to paragraph (2).

(6) The plan shall provide to the independent entity arranging for the panel of experts a copy of the following documents within five business days of the plan's receipt of a request by an enrollee or enrollee's physician for an external, independent review:

(A) The medical records relevant to the patient's condition for which the proposed therapy has been recommended, provided the documents are within the plan's possession. Any medical records provided to the plan after the initial documents are provided to the independent entity shall be forwarded by the plan to the independent entity within five business days. The confidentiality of the medical records shall be maintained pursuant to Section 56.10 of the Civil Code.

(B) A copy of any relevant documents used by the plan in determining whether the proposed therapy should be covered, and any statement by the plan explaining the reasons for the plan's decision not to provide coverage for the proposed therapy. The plan shall provide, upon request, a copy of the documents required by this paragraph, except for the documents described in subparagraphs (A) and (C), to the enrollee and the enrollee's physician.

(C) Any information submitted by the enrollee or the enrollee's physician to the plan in support of the enrollee's request for coverage of the proposed drug, device, procedure, or other therapy.

(7) The experts on the panel shall render their analyses and recommendations within 30 days of the receipt of the enrollee's request for review. If the enrollee's physician determines that the proposed therapy would be significantly less effective if not promptly initiated, the analyses and recommendations of the experts on the panel shall be rendered within seven days of the request for expedited review. At the request of the expert, the deadline shall be extended by up to three days for a delay in providing the documents required by paragraph (6) of subdivision (b).

(8) Each expert's analysis and recommendation shall be in written form and state the reasons the requested therapy is or is not likely to be more beneficial for the enrollee than any available standard therapy, and the reasons that the expert recommends that the therapy should or should not be provided by the plan, citing the enrollee's specific medical condition, the relevant documents provided pursuant to paragraph (6), and the relevant medical and scientific evidence, including, but not limited to, the medical and

scientific evidence as defined in subdivision (d), to support the expert's recommendation.

(9) The independent entity shall provide the plan and the enrollee's physician with the experts' analyses and recommendations, a description of the qualifications of each expert, and any other information that it chooses to provide to the plan and the enrollee's physician, including, but not limited to, the names of the expert reviewers. The independent entity shall not be required to disclose the names of the expert reviewers to the plan or the enrollee's physician, except pursuant to a properly made request for discovery. If the independent entity chooses to disclose the names of the experts on the panel to the plan, the independent entity must also disclose the names of the experts to the enrollee's physician. The enrollee's physician may provide these documents and information to the enrollee.

(10) If the majority of experts on the panel recommend providing the proposed therapy, pursuant to paragraph (8), the recommendation shall be binding on the plan. If the recommendations of the experts on the panel are evenly divided as to whether the therapy should be provided, then the panel's decision shall be deemed to be in favor of coverage. If less than a majority of the experts on the panel recommend providing the therapy, the plan is not required to provide the therapy. Coverage for the services required under this section shall be provided subject to the terms and conditions generally applicable to other benefits under the plan contract.

(11) The plan shall have written policies describing the external, independent review process. The plan shall disclose the availability of the external, independent review process and how enrollees may access the review process in the plan's evidence of coverage and disclosure forms.

(c) The Commissioner of Corporations, in consultation with the Insurance Commissioner, shall, by January 1, 1998, contract with a private, nonprofit accrediting organization to accredit the independent review entities specified in subdivision (b). The accrediting organization shall have the power to grant and revoke accreditation, and shall develop, apply, and enforce accreditation standards, including those required in subdivision (e), that ensure the independence of the independent review entity, the confidentiality of the medical records, and the qualifications and independence of the health care professionals providing the analyses and recommendations requested of them. The accrediting organization shall demonstrate the ability to objectively evaluate the performance of independent entities and shall demonstrate that it has no conflict of interest, including any material professional, familial, or financial affiliation as defined in paragraph (4) of subdivision (b) with any independent entity or plan, in accrediting entities for the purpose of reviewing medical treatments, treatment

recommendations, and coverage decisions by health care service plans.

(d) For the purposes of paragraph (3) of subdivision (a), "medical and scientific evidence" means the following sources:

(1) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

(2) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base Health Services Technology Assessment Research (HSTAR).

(3) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act.

(4) The following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information.

(5) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(6) Peer-reviewed abstracts accepted for presentation at major medical association meetings.

(e) In order to receive accreditation for the purposes of this section, an independent entity shall meet all of the following requirements:

(1) The independent entity shall be an organization that has as its primary function the provision of expert reviews and related services and receives a majority of its revenues from these services, except that an academic medical center may qualify as an independent entity for purposes of this act without meeting either of these criteria. An independent entity may not be a subsidiary of, nor in any way owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers.

(2) The independent entity shall submit to the accrediting organization and to the Department of Corporations the following information upon initial application for accreditation and annually thereafter upon any change to any of the following information:

(A) The names of all stockholders and owners of more than 5 percent of any stock or options, if a publicly held organization.

(B) The names of all holders of bonds or notes in excess of one hundred thousand dollars ($100,000), if any.

(C) The names of all corporations and organizations that the independent entity controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business.

(D) The names and biographical sketches of all directors, officers, and executives of the independent entity, as well as a statement regarding any relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care organization, provider group or board or committee.

(E) The percentage of revenue the independent entity receives from expert reviews.

(F) A description of the review process, including, but limited not to, the method of selecting expert reviewers and matching the expert reviewers to specific cases.

(G) A description of the system the independent entity uses to identify and recruit expert reviewers, the number of expert reviewers credentialed, and the types of cases the experts are credentialed to review.

(H) Documentation regarding the medical institutions from which the independent entity has selected the experts during the previous 12 months, and the percentage of opinions obtained from each institution.

(I) A description of the areas of expertise available from expert reviewers retained by the independent entity.

(J) A description of how the independent entity ensures compliance with the conflict-of-interest provisions of this section.

(3) The independent entity shall demonstrate that it has a quality assurance mechanism in place that does the following:

(A) Ensures that the experts retained are appropriately credentialed and privileged.

(B) Ensures that the reviews provided by the experts are timely, clear and credible, and that reviews are monitored for quality on an ongoing basis.

(C) Ensures that the method of selecting expert reviewers for individual cases achieves a fair and impartial panel of experts who are qualified to render recommendations regarding the clinical conditions and therapies in question.

(D) Ensures the confidentiality of medical records and the review materials, consistent with the requirements of this section.

(E) Ensures the independence of the experts retained to perform the reviews through conflict-of-interest policies and prohibitions and adequate screening for conflicts of interest, pursuant to paragraph (3) of subdivision (b).

(f) (1) The Department of Corporations shall receive the information filed by independent entities pursuant to paragraph (2) of subdivision (e) for the purpose of creating a file of public records. The Department of Corporations shall not be responsible for accrediting independent entities.

(2) The accrediting organization shall provide, upon the request of any interested person, a copy of all nonproprietary information filed with it by the independent entity under paragraph (2) of subdivision (e). The accrediting organization may charge a reasonable fee to the interested person for photocopying the requested information.

(g) The independent review process established by this section shall be required on and after January 1, 2000.

(h) Upon the operation of the Department of Managed Care and the appointment of its director, the responsibilities of the Department of Corporations and its commissioner shall be transferred to the Department of Managed Care and its director.

(i) If Assembly Bill 55 of the 1999–2000 Regular Session is enacted, 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. 9. Section 1370.4 is added to the Health and Safety Code, to read:

1370.4. (a) Every health care service plan shall provide an external, independent review process to examine the plan's coverage decisions regarding experimental or investigational therapies for individual enrollees who meet all of the following criteria:

(1) (A) The enrollee has a life-threatening or seriously debilitating condition.

(B) For purposes of this section, "life-threatening" means either or both of the following:

(i) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted.

(ii) Diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(C) For purposes of this section, "seriously debilitating" means diseases or conditions that cause major irreversible morbidity.

(2) The enrollee's physician certifies that the enrollee has a condition, as defined in paragraph (1), for which standard therapies have not been effective in improving the condition of the enrollee, for which standard therapies would not be medically appropriate for the enrollee, or for which there is no more beneficial standard therapy covered by the plan than the therapy proposed pursuant to paragraph (3).

(3) Either (A) the enrollee's physician, who is under contract with or employed by the plan, has recommended a drug, device, procedure or other therapy that the physician certifies in writing is likely to be more beneficial to the enrollee than any available

standard therapies, or (B) the enrollee, or the enrollee's physician who is a licensed, board-certified or board-eligible physician qualified to practice in the area of practice appropriate to treat the enrollee's condition, has requested a therapy that, based on two documents from the medical and scientific evidence, as defined in subdivision (d), is likely to be more beneficial for the enrollee than any available standard therapy. The physician certification pursuant to this subdivision shall include a statement of the evidence relied upon by the physician in certifying his or her recommendation. Nothing in this subdivision shall be construed to require the plan to pay for the services of a nonparticipating physician provided pursuant to this subdivision, that are not otherwise covered pursuant to the plan contact.

(4) The enrollee has been denied coverage by the plan for a drug, device, procedure, or other therapy recommended or requested pursuant to paragraph (3).

(5) The specific drug, device, procedure, or other therapy recommended pursuant to paragraph (3) would be a covered service, except for the plan's determination that the therapy is experimental or investigational.

(b) The plan's decision to delay, deny, or modify experimental or investigational therapies shall be subject to the independent medical review process under Article 12 (commencing with Section 1374.30) of this chapter except that, in lieu of the information specified in subdivision (i) of Section 1374.30, an independent medical reviewer shall base his or her determination on relevant medical and scientific evidence, including, but not limited to, the medical and scientific evidence defined in subdivision (d).

(c) The independent medical review process shall also meet the following criteria:

(1) The plan shall notify eligible enrollees in writing of the opportunity to request the external independent review within five business days of the decision to deny coverage.

(2) If the enrollee's physician determines that the proposed therapy would be significantly less effective if not promptly initiated, the analyses and recommendations of the experts on the panel shall be rendered within seven days of the request for expedited review. At the request of the expert, the deadline shall be extended by up to three days for a delay in providing the documents required. The timeframes specified in this paragraph shall be in addition to any otherwise applicable timeframes contained in subdivision (c) of Section 1374.33.

(3) Each expert's analysis and recommendation shall be in written form and state the reasons the requested therapy is or is not likely to be more beneficial for the enrollee than any available standard therapy, and the reasons that the expert recommends that the therapy should or should not be provided by the plan, citing the enrollee's specific medical condition, the relevant documents

provided, and the relevant medical and scientific evidence, including, but not limited to, the medical and scientific evidence as defined in subdivision (d), to support the expert's recommendation.

(4) Coverage for the services required under this section shall be provided subject to the terms and conditions generally applicable to other benefits under the plan contract.

(d) For the purposes of subdivision (b), "medical and scientific evidence" means the following sources:

(1) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

(2) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base Health Services Technology Assessment Research (HSTAR).

(3) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act.

(4) The following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information.

(5) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(6) Peer-reviewed abstracts accepted for presentation at major medical association meetings.

(e) The independent review process established by this section shall be required on and after January 1, 2001.

(f) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 10. Section 1374.34 is added to the Health and Safety Code, to read:

13933. (a) Upon receiving the decision adopted by the director pursuant to Section 1374.33 that a disputed health care service is medically necessary, the plan shall immediately contact the enrollee and offer to promptly implement the decision.

(b) A plan shall not engage in any conduct that has the effect of prolonging the independent review process. The engaging in that conduct or the failure of the plan to promptly implement the decision is a violation of this chapter and, in addition to any other fines, penalties, and other remedies available to the director under this chapter, the plan shall be subject to an administrative penalty of not less than five thousand dollars ($5,000) for each day that the decision is not implemented. Administrative penalties shall be deposited in the State Managed Care Fund.

(c) In any case where an enrollee secured urgent care or emergency services outside of the plan provider network, which services are later found by the independent medical review organization to have been medically necessary pursuant to Section 1374.33, the director shall require the plan to promptly reimburse the enrollee for any reasonable costs associated with those services when the director finds that the enrollee's decision to secure the services outside of the plan provider network prior to completing the plan grievance process or seeking an independent medical review was reasonable under the circumstances and the disputed health care services were a covered benefit under the terms and conditions of the health care service plan contract.

(d) In addition to requiring plan compliance regarding subdivisions (a), (b), and (c) the director shall review individual cases submitted for independent medical review to determine whether any enforcement actions, including penalties, may be appropriate. In particular, where substantial harm to an enrollee has already occurred because of the decision of a plan, or one of its contracting providers, to delay, deny, or modify covered health care services that an independent medical review determines to be medically necessary pursuant to Section 1374.33, the director shall impose penalties.

(e) Pursuant to Section 1368.04, the director shall perform an annual audit of independent medical review cases for the dual purposes of education and the opportunity to determine if any investigative or enforcement actions should be undertaken by the department, particularly if a plan repeatedly fails to act promptly and reasonably to resolve grievances associated with a delay, denial, or modification of medically necessary health care services when the obligation of the plan to provide those health care services to enrollees or subscribers is reasonably clear.

(f) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999-2000 Regular Session is enacted.

SEC. 11. Section 1374.36 is added to the Health and Safety Code, to read:

1374.36. (a) The director shall submit to the Legislature by March 1, 2002, a report on the initial implementation of this article. The report shall include a description of assessments imposed on

plans to implement this article, increased staffing and other resources attributable to these new responsibilities, and any redirection of existing staff and resources to carry out these responsibilities. A single copy of the report shall be made available at no cost to members of the public upon request. The department may recover the cost of additional copies that are requested.

(b) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 12. Section 10145.3 of the Insurance Code is amended to read:

10145.3. (a) Every disability insurer that covers hospital, medical, or surgical benefits shall provide an external, independent review process to examine the insurer's coverage decisions regarding experimental or investigational therapies for individual insureds who meet all of the following criteria:

(1) (A) The insured has a life-threatening or seriously debilitating condition.

(B) For purposes of this section, "life-threatening" means either or both of the following:

(i) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted.

(ii) Diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(C) For purposes of this section, "seriously debilitating" means diseases or conditions that cause major irreversible morbidity.

(2) The insured's physician certifies that the insured has a condition, as defined in paragraph (1), for which standard therapies have not been effective in improving the condition of the insured, for which standard therapies would not be medically appropriate for the insured, or for which there is no more beneficial standard therapy covered by the insurer than the therapy proposed pursuant to paragraph (3).

(3) Either (A) the insured's contracting physician has recommended a drug, device, procedure, or other therapy that the physician certifies in writing is likely to be more beneficial to the insured than any available standard therapies, or (B) the insured, or the insured's physician who is a licensed, board-certified or board-eligible physician qualified to practice in the area of practice appropriate to treat the insured's condition, has requested a therapy that, based on two documents from the medical and scientific evidence, as defined in subdivision (d), is likely to be more beneficial for the insured than any available standard therapy. The physician certification pursuant to this subdivision shall include a statement of the evidence relied upon by the physician in certifying his or her recommendation. Nothing in this subdivision shall be construed to require the insurer to pay for the services of a noncontracting

physician, provided pursuant to this subdivision, that are not otherwise covered pursuant to the contract.

(4) The insured has been denied coverage by the insurer for a drug, device, procedure, or other therapy recommended or requested pursuant to paragraph (3), unless coverage for the specific therapy has been excluded by the insurer's contract.

(5) This section does not apply to any Medi-Cal beneficiary enrolled with an insurer under the insurer's contract with the Medi-Cal program.

(6) The specific drug, device, procedure, or other therapy recommended pursuant to paragraph (3) would be a covered service except for the insurer's determination that the therapy is experimental or under investigation.

(b) The insurer's external, independent review shall meet the following criteria:

(1) The insurer shall offer all insureds who meet the criteria in subdivision (a) the opportunity to have the requested therapy reviewed under the external, independent review process. The insurer shall notify eligible insureds in writing of the opportunity to request the external independent review within five business days of the decision to deny coverage.

(2) The Department of Corporations shall contract with one or more impartial, independent entities that are accredited pursuant to subdivision (c). The entity shall arrange for review of the coverage decision of the insurer by selecting an independent panel of at least three physicians or other providers who are experts in the treatment of the insured's medical condition and knowledgeable about the recommended therapy. If the entity is an academic medical center accredited in accordance with subdivision (e), the independent panel may include experts affiliated with or employed by the entity. A panel of two experts may be arranged at the insurer's request, provided the insured consents in writing. The independent entity may arrange for a panel of one expert only if the independent entity certifies in writing that there is only one expert qualified and able to review the recommended therapy. Neither the insurer nor the insured shall choose or control the choice of the physician or other provider experts.

(3) Neither the expert, nor the independent entity, nor any officer, director, or management employee of the independent entity may have any material professional, familial, or financial affiliation, as defined in paragraph (4), with any of the following:

(A) The insurer.

(B) Any officer, director, or management employee of the insurer.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the therapy.

(D) The institution at which the therapy would be provided.

(E) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the insured whose treatment is under review.

(4) For purposes of this section, the following terms have the following meanings:

(A) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(B) "Material professional affiliation" means any physician-patient relationship, any partnership or employment relationship, a shareholder or similar ownership interest in a professional corporation, or any independent contractor arrangement that constitutes a material financial affiliation with any expert or any officer or director of the independent entity. The term "material professional affiliation" does not include affiliations that are limited to staff privileges at a health facility.

(C) "Material financial affiliation" means any financial interest of more than 5 percent of total annual revenue or total annual income of an entity or individual to which this subdivision applies. "Material financial affiliation" does not include payment by the insurer to the independent entity for the services required by this section, nor does "material financial affiliation" include an expert's participation as a contracting provider for the insurer where the expert is affiliated with an academic medical center or a National Cancer Institute-designated clinical cancer research center.

(5) The insured shall not be required to pay for the external independent review. The costs of the review shall be borne by the insurer. The insurer shall reimburse the Department of Corporations for any costs associated with contracting with any independent entity pursuant to paragraph (2).

(6) The insurer shall provide to the independent entity arranging for the panel of experts a copy of the following documents within five business days of the insurer's receipt of a request by an insured or insured's physician for an external independent review.

(A) The medical records relevant to the patient's condition for which the proposed therapy has been recommended, provided the documents are within the insurer's possession. Any medical records provided to the insurer after the initial documents are provided to the independent entity shall be forwarded by the insurer to the independent entity within five business days. The confidentiality of the medical records shall be maintained pursuant to Section 56.10 of the Civil Code.

(B) A copy of any relevant documents used by the insurer in determining whether the proposed therapy should be covered, and any statement by the insurer explaining the reasons for the insurer's decision not to provide coverage for the proposed therapy. The insurer shall provide, upon request, a copy of the documents required by this paragraph, except for the documents described in

subparagraphs (A) and (C), to the insured and the insured's physician.

(C) Any information submitted by the insured or the insured's physician to the insurer in support of the insured's request for coverage of the proposed drug, device, procedure, or other therapy.

(7) The experts on the panel shall render their analyses and recommendations within 30 days of the receipt of the insured's request for review. If the insured's physician determines that the proposed therapy would be significantly less effective if not promptly initiated, the analyses and recommendations of the experts on the panel shall be rendered within seven days of the request for expedited review. At the request of the expert, the deadline shall be extended by up to three days for a delay in providing the documents required by paragraph (6) of subdivision (b).

(8) Each expert's analysis and recommendation shall be in written form and state the reasons the requested therapy is or is not likely to be more beneficial for the insured than any available standard therapy, and the reasons that the expert recommends that the therapy should or should not be covered by the insurer, citing the insured's specific medical condition, the relevant documents provided pursuant to paragraph (6), and the relevant medical and scientific evidence, including, but not limited to, the medical and scientific evidence as defined in subdivision (d), to support the expert's recommendation.

(9) The independent entity shall provide the insurer and the insured's physician with the expert's analyses and recommendations, a description of the qualifications of each expert, and any other information that it chooses to provide to the insurer and the insured's physician, including, but not limited to, the names of the expert reviewers. The independent entity shall not be required to disclose the names of the expert reviewers to the insurer or to the insured's physician, except pursuant to a properly made request for discovery. If the independent entity chooses to disclose the names of the experts on the panel to the insurer, the independent entity must also disclose the names of the experts to the insured's physician. The insured's physician may provide these documents and information to the enrollee.

(10) If the majority of experts on the panel recommend providing the proposed therapy, pursuant to paragraph (8), the recommendation shall be binding on the insurer. If the recommendations of the experts on the panel are evenly divided as to whether the therapy should be provided, then the panel's decision shall be deemed to be in favor of coverage. If less than a majority of the experts on the panel recommend providing the therapy, the insurer is not required to provide the therapy. Coverage for the services required under this section shall be provided subject to the terms and conditions generally applicable to other benefits under the contract.

(11) The insurer shall have written policies describing the external, independent review process. The insurer shall disclose the availability of the external, independent review process and how insureds may access the review process in the insurer's evidence of coverage and disclosure forms.

(c) The Commissioner of Corporations, in consultation with the Insurance Commissioner, shall, by January 1, 1998, contract with a private, nonprofit accrediting organization to accredit the independent review entities specified in subdivision (b). The accrediting organization shall have the power to grant and revoke accreditation, and shall develop, apply, and enforce accreditation standards, including those required in subdivision (e), that ensure the independence of the independent review entity, the confidentiality of the medical records, and the qualifications and independence of the health care professionals providing the analyses and recommendations requested of them. The accrediting organization shall demonstrate the ability to objectively evaluate the performance of independent entities and shall demonstrate that it has no conflict of interest, including any material professional, familial, or financial affiliation as defined in paragraph (4) of subdivision (b) with any independent entity or disability insurer, in accrediting entities for the purpose of reviewing medical treatments, treatment recommendations, and coverage decisions by disability insurers.

(d) For the purposes of paragraph (3) of subdivision (a), "medical and scientific evidence" means the following sources:

(1) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

(2) Peer-reviewed literature, biomedical compendia and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline and MEDLARS data base Health Services Technology Assessment Research (HSTAR).

(3) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act.

(4) The following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics and The United States Pharmacopoeia-Drug Information.

(5) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care

Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(6) Peer-reviewed abstracts accepted for presentation at major medical association meetings.

(e) In order to receive accreditation for the purposes of this section, an independent entity shall meet all of the following requirements:

(1) The independent entity shall be an organization that has as its primary function the provision of expert reviews and related services and receives a majority of its revenues from these services, except that an academic medical center may qualify as an independent entity for purposes of this act without meeting either of these criteria. An independent entity may not be a subsidiary of, nor in any way owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers.

(2) The independent entity shall submit to the accrediting organization and to the Department of Corporations the following information upon initial application for accreditation and annually thereafter upon any change to any of the following information:

(A) The names of all stockholders and owners of more than 5 percent of any stock or options, if a publicly held organization.

(B) The names of all holders of bonds or notes in excess of one hundred thousand dollars ($100,000), if any.

(C) The names of all corporations and organizations that the independent entity controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business.

(D) The names and biographical sketches of all directors, officers, and executives of the independent entity, as well as a statement regarding any relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care organization, provider group or board or committee.

(E) The percentage of revenue the independent entity receives from expert reviews.

(F) A description of the review process, including, but limited not to, the method of selecting expert reviewers and matching the expert reviewers to specific cases.

(G) A description of the system the independent entity uses to identify and recruit expert reviewers, the number of expert reviewers credentialed, and the types of cases the experts are credentialed to review.

(H) Documentation regarding the medical institutions from which the independent entity has selected the experts during the previous 12 months, and the percentage of opinions obtained from each institution.

(I) A description of the areas of expertise available from expert reviewers retained by the independent entity.

(J) A description of how the independent entity ensures compliance with the conflict-of-interest provisions of this section.

(3) The independent entity must demonstrate that it has a quality assurance mechanism in place that does the following:

(A) Ensures that the experts retained are appropriately credentialed and privileged.

(B) Ensures that the reviews provided by the experts are timely, clear and credible, and that reviews are monitored for quality on an ongoing basis.

(C) Ensures that the method of selecting expert reviewers for individual cases achieves a fair and impartial panel of experts who are qualified to render recommendations regarding the clinical conditions and therapies in question.

(D) Ensures the confidentiality of medical records and the review materials, consistent with the requirements of this section.

(E) Ensures the independence of the experts retained to perform the reviews through conflict-of-interest policies and prohibitions and adequate screening for conflicts of interest, pursuant to paragraph (3) of subdivision (b).

(f) (1) The Department of Corporations shall receive the information filed by independent entities pursuant to paragraph (2) of subdivision (e) for the purpose of creating a file of public records. The Department of Corporations shall not be responsible for accrediting independent entities.

(2) The accrediting organization shall provide, upon the request of any interested person, a copy of all nonproprietary information filed with it by the independent entity under paragraph (2) of subdivision (e). The accrediting organization may charge a reasonable fee to the interested person for photocopying the requested information.

(g) The independent review process established by this section shall be required on and after January 1, 2000.

(h) Upon the operation of the Department of Managed Care and the appointment of its director, the responsibilities of the Department of Insurance and its commissioner shall be transferred to the Department of Managed Care and its director.

(i) This section shall remain in effect only until the operative date of the independent review process established by Assembly Bill 55 of the 1999–2000 Regular Session, and as of that date is repealed.

SEC. 13. Section 10145.3 is added to the Insurance Code, to read:

10145.3. (a) Every disability insurer that covers hospital, medical, or surgical benefits shall provide an external, independent review process to examine the insurer's coverage decisions regarding experimental or investigational therapies for individual insureds who meet all of the following criteria:

(1) (A) The insured has a life-threatening or seriously debilitating condition.

(B) For purposes of this section, "life-threatening" means either or both of the following:

(i) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted.

(ii) Diseases or conditions with potentially fatal outcomes, where the end point of clinical intervention is survival.

(C) For purposes of this section, "seriously debilitating" means diseases or conditions that cause major irreversible morbidity.

(2) The insured's physician certifies that the insured has a condition, as defined in paragraph (1), for which standard therapies have not been effective in improving the condition of the insured, for which standard therapies would not be medically appropriate for the insured, or for which there is no more beneficial standard therapy covered by the insurer than the therapy proposed pursuant to paragraph (3).

(3) Either (A) the insured's contracting physician has recommended a drug, device, procedure, or other therapy that the physician certifies in writing is likely to be more beneficial to the insured than any available standard therapies, or (B) the insured, or the insured's physician who is a licensed, board-certified or board-eligible physician qualified to practice in the area of practice appropriate to treat the insured's condition, has requested a therapy that, based on two documents from the medical and scientific evidence, as defined in subdivision (d), is likely to be more beneficial for the insured than any available standard therapy. The physician certification pursuant to this subdivision shall include a statement of the evidence relied upon by the physician in certifying his or her recommendation. Nothing in this subdivision shall be construed to require the insurer to pay for the services of a noncontracting physician, provided pursuant to this subdivision, that are not otherwise covered pursuant to the contract.

(4) The insured has been denied coverage by the insurer for a drug, device, procedure, or other therapy recommended or requested pursuant to paragraph (3), unless coverage for the specific therapy has been excluded by the insurer's contract.

(5) The specific drug, device, procedure, or other therapy recommended pursuant to paragraph (3) would be a covered service except for the insurer's determination that the therapy is experimental or under investigation.

(b) The insurer's decision to deny, delay, or modify experimental or investigational therapies shall be subject to the independent medical review process established under Article 12 (commencing with Section 1374.30) of Chapter 2 of Division 2 of the Health and Safety Code, except that in lieu of the information specified in subdivision (i) of Section 1374.30, an independent medical reviewer shall base his or her determination on relevant medical and scientific

evidence, including, but not limited to, the medical and scientific evidence defined in subdivision (d).

(c) The independent medical review process shall also meet the following criteria:

(1) The insurer shall notify eligible insureds in writing of the opportunity to request the external independent review within five business days of the decision to deny coverage.

(2) If the insured's physician determines that the proposed therapy would be significantly less effective if not promptly initiated, the analyses and recommendations of the experts on the panel shall be rendered within seven days of the request for expedited review. At the request of the expert, the deadline shall be extended by up to three days for a delay in providing the documents required. The timeframes specified in this paragraph shall be in addition to any otherwise applicable timeframes contained in subdivision (c) of Section 1374.33 of the Health and Safety Code.

(3) Each expert's analysis and recommendation shall be in written form and state the reasons the requested therapy is or is not likely to be more beneficial for the insured than any available standard therapy, and the reasons that the expert recommends that the therapy should or should not be covered by the insurer, citing the insured's specific medical condition, the relevant documents, and the relevant medical and scientific evidence, including, but not limited to, the medical and scientific evidence as defined in subdivision (d), to support the expert's recommendation.

(4) Coverage for the services required under this section shall be provided subject to the terms and conditions generally applicable to other benefits under the contract.

(d) For the purposes of subdivision (b), "medical and scientific evidence" means the following sources:

(1) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

(2) Peer-reviewed literature, biomedical compendia and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline and MEDLARS data base Health Services Technology Assessment Research (HSTAR).

(3) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act.

(4) The following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics and The United States Pharmacopoeia-Drug Information.

(5) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(6) Peer-reviewed abstracts accepted for presentation at major medical association meetings.

(e) The independent review process established by this section shall be required on and after January 1, 2001.

(f) This section shall become operative on January 1, 2001, and then only if Assembly Bill 55 of the 1999–2000 Regular Session is enacted.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 543

An act to add Section 1367.665 to the Health and Safety Code, and to add Section 10123.20 to the Insurance Code, relating to health coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1367.665 is added to the Health and Safety Code, to read:

1367.665. Every individual or group health care service plan contract, except for a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after July 1, 2000, shall be deemed to provide coverage for all generally medically accepted cancer screening tests, subject to all terms and conditions that would otherwise apply.

SEC. 2. Section 10123.20 is added to the Insurance Code, to read:

10123.20. (a) Every individual or group disability insurance policy that covers hospital, medical, or surgical expenses that is

issued, amended, delivered, or renewed on or after July 1, 2000, shall be deemed to provide coverage for all generally medically accepted cancer screening tests, subject to all other terms and conditions that would otherwise apply.

(b) This section shall not apply to vision-only, dental-only, accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or disability income insurance, except that for accident-only, specified disease, or hospital indemnity insurance, coverage for benefits under this section shall apply to the extent that the benefits are covered under the general terms and conditions that apply to all other benefits under the policy or contract. Nothing in this section shall be construed as imposing a new benefit mandate on accident-only, specified disease, or hospital indemnity insurance.

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.

CHAPTER 544

An act to amend Section 1317.1 of the Health and Safety Code, relating to emergency services.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 1317.1 of the Health and Safety Code is amended to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) "Emergency services and care" also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) For the purposes of Section 1371.4, emergency services and care as defined in this paragraph shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent that those services are excluded from coverage under the contract.

(C) This paragraph does not expand, restrict, or otherwise affect, the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Health Services.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

(h) "Within the capability of the facility" means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) "Consultation" means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient's medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is "stabilized" or "stabilization" has occurred when, in the opinion of the treating provider, the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, a transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

SEC. 2. (a) It is the intent of the Legislature in amending Section 1317.1 of the Health and Safety Code in Section 1 of this act to clarify the meaning of Section 1317.1 of the Health and Safety Code.

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

(1) Many health care service plans, their subcontractors, emergency physicians, and emergency departments have been interpreting Section 1317.1 of the Health and Safety Code to define emergency services and care to include evaluation and care to assess and stabilize a psychiatric medical emergency. This interpretation is also being followed by state regulatory agencies and the federal government.

(2) However, some health care service plans and their subcontractors have denied reimbursement for a psychiatric evaluation if the patient also had an evaluation for a nonpsychiatric medical emergency during the same emergency department visit.

(c) The amendments to Section 1317.1 of the Health and Safety Code in Section 1 of this act do both of the following:

(1) Constitute a clarification of the definition of emergency services and care contained in Section 1317.1 of the Health and Safety Code so that health care service plans and their subcontractors do not misinterpret the statute in a manner that justifies acts similar to those described in paragraph (2) of subdivision (b).

(2) Constitute a clarification of an existing responsibility and not the addition of a new responsibility.

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.

CHAPTER 545

An act to add Section 511.1 to the Business and Professions Code, to add Section 1395.6 to the Health and Safety Code, to add Section 10178.3 to the Insurance Code, and to add Section 4609 to the Labor Code, relating to health care coverage.

[Approved by Governor September 27, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 511.1 is added to the Business and Professions Code, to read:

511.1. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its beneficiaries to use the list of contracted providers if one of the following occurs:

(A) The payor offers its beneficiaries direct financial incentives to use the list of contracted providers when obtaining medical care. "Financial incentives" means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information directly to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or

payors from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the plan or network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the contract between the payor and the beneficiary, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to

pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Beneficiary" means:

(A) For workers' compensation, an employee seeking health care services for a work-related injury.

(B) For automobile insurance, a named insured.

(C) For group or individual health care coverage through a health care service plan or a disability insurer, a subscriber or an insured.

(2) "Contracting agent" means an individual or entity, including, but not limited to, a third-party administrator or trust, a preferred provider organization, or an independent practice association, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries. For purposes of this section, a contracting agent shall not include a health care service plan, a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability, life, automobile, or workers' compensation insurance, or a self-insured employer.

(3) Except as otherwise provided in this paragraph, "payor" means a health care service plan, a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability, life, automobile, or workers' compensation insurance, a self-insured employer, a third-party administrator or trust, or any other third party that is responsible to pay for health care services provided to beneficiaries. However, for purposes of subdivisions (e) and (f), a payor shall not include a health care service plan, a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability, life, automobile, or worker's compensation insurance, or a self-insured employer.

(4) "Payor summary" means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) "Provider" means any of the following:

(A) Any person licensed or certified pursuant to this division.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(i) This section shall become operative on July 1, 2000.

SEC. 2. Section 1395.6 is added to the Health and Safety Code, to read:

1395.6. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose to the provider whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's subscribers to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its subscribers to use the list of contracted providers if one of the following occurs:

(A) The payor offers its subscribers direct financial incentives to use the list of contracted providers when obtaining medical care. "Financial incentives" means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information to subscribers advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to subscribers in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of

provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every subscriber. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a subscriber.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' subscribers to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreement with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's subscribers to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' subscribers to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the

applicable health care service plan contract covering the enrollee, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Contracting agent" means a health care service plan or a specialized health care service plan, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to subscribers.

(3) "Payor" means a health care service plan or a specialized health care service plan.

(4) "Payor summary" means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) "Provider" means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(E) Any entity exempt from licensure pursuant to Section 1206.

(i) This section shall become operative on July 1, 2000.

SEC. 3. Section 10178.3 is added to the Insurance Code, to read:

10178.3. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based

on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its beneficiaries to use the list of contracted providers if one of the following occurs:

(A) The payor offers its beneficiaries direct financial incentives to use the list of contracted providers when obtaining medical care. "Financial incentives" means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the beneficiary's policy with the payor, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Beneficiary" means:

(A) For automobile insurance, a named insured.

(B) For group or individual health care coverage through a disability insurer, an insured.

(C) For workers' compensation insurance, an employee seeking health care services for a work-related injury.

(2) "Contracting agent" means a self-insured employer or an insurer licensed under this code to provide disability, life, automobile, or workers' compensation insurance, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries.

(3) "Payor" means a self-insured employer or an insurer licensed under this code to provide disability, life, automobile, or workers' compensation insurance, that is responsible to pay for health care services provided to beneficiaries.

(4) "Payor summary" means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) "Provider" means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(i) This section shall become operative on July 1, 2000.

SEC. 4. Section 4609 is added to the Labor Code, to read:

4609. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and shall actively encourage patients to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care

providers and their contracted reimbursement rates to a payor or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged beneficiaries to use the list of contracted providers if the employer of the beneficiaries provides information directly to beneficiaries advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of sustaining a workplace injury, which approaches may include, but are not limited to, the use of provider directories, the use of a posted list of all contracted providers in an area geographically accessible to the posting site, the use of wall cards that direct beneficiaries to a readily accessible listing of those providers at the same location as the wall cards, the use of wall cards that direct beneficiaries to a toll-free telephone number or internet web site address, or the use of toll-free telephone numbers or internet web site addresses supplied directly to every beneficiary. However, internet web site addresses alone shall not be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or employers from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(c) A contracting agent shall allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased,

transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2) of subdivision (b). Each provider's election under this subdivision shall be binding on every contracting agent or payor that buys, leases, or otherwise obtains a list of contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the lesser of the provider's actual fee or, as applicable, the official medical fee schedule, the official medical-legal fee schedule, or the in-patient fee schedule, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provide agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to subdivision (c).

(g) For the purposes of this section, the following terms have the following meanings:

(1) "Beneficiary" means an employee seeking health care services for a work-related injury.

(2) "Contracting agent" means a self-insured employer or an insurer licensed under the Insurance Code to provide workers'

compensation insurance, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, conveying, or arranging the availability of a provider or provider panel to provide health care services to beneficiaries.

(3) "Payor" means a self-insured employer or an insurer licensed under the Insurance Code to provide workers' compensation insurance.

(4) "Payor summary" means a written summary that includes the payor's name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers' compensation insurance plan.

(5) "Provider" means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(h) This section shall become operative on July 1, 2000.

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.

CHAPTER 546

An act to amend Section 760 of the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 760 of the Streets and Highways Code is amended to read:

760. (a) If the board of supervisors of any county determines, by a four-fifths vote of the membership of the board, that the acquisition or contribution authorized under this section will promote the interests of the county and the acquisition or contribution is recommended in writing by the department, the board, by resolution passed by a four-fifths vote of its members, may proceed to do either or both of the following:

(1) Acquire any real property or interest needed for state highway purposes and described in the department's written recommendation. The board shall proceed, if necessary, to condemn the real property or any interest therein. The title to the property or interest may be taken in the name of the state or the county. The resolution of the board is the only preliminary procedure required prior to the acquisition of the property or interest, or to the commencement of a condemnation proceeding, except that if the acquisition is by eminent domain, the resolution shall be one that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure.

(2) Contribute bridges, fencing, money, labor, materials, and appurtenances toward the construction of state highways within the limits of the county.

(b) After the board has adopted the resolution described in subdivision (a) and based on the terms of that resolution, the department may proceed to condemn any real property or interest that is described in both the department's recommendation and the board's resolution.

(c) The acquisitions or contributions authorized under this section shall be for the use of the state as provided in Section 762.

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 more efficient condemnation procedures to acquire real property for state highway use take effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 547

An act to amend Sections 16118, 16119, 16120.05, and 16121.05 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or the county pursuant to this chapter. The department shall adopt any regulations necessary to carry out the provisions of this chapter.

(b) The department shall keep any records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of children eligible for the Adoption Assistance Program.

(c) The department or the county responsible for providing financial aid in the amount determined in Section 16120 shall have responsibility for certifying that the child meets the eligibility criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The department shall actively seek and make maximum use of federal funds that may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

(e) For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for such a payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family. The responsible county shall certify eligibility on a form prescribed by the department.

SEC. 2. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. (a) At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments. The department or the licensed adoption agency shall also provide the prospective adoptive family with information, in writing, on the availability of

reimbursement for the nonrecurring expenses incurred in the adoption of the Adoption Assistance Program eligible child. The department or licensed adoption agency shall also provide the prospective adoptive family with information on the availability of mental health services through the Medi-Cal program or other programs.

(b) The department or the licensed agency shall encourage families that elect not to sign an adoption assistance agreement to sign a deferred adoption assistance agreement.

(c) The department or the county, whichever is responsible for determining the child's eligibility for the Adoption Assistance Program, shall assess the needs of the child and the circumstances of the family.

(d) (1) The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child and the circumstances of the family. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child, as needed.

(2) For purposes of paragraph (1), "circumstances of the family" includes the family's ability to incorporate the child into the household in relation to the lifestyle, standard of living, and future plans and to the overall capacity to meet the immediate and future needs, including education, of the child.

(e) The department or the licensed adoption agency shall inform the prospective adoptive family regarding the county responsible for providing financial aid to the adoptive family in an amount determined pursuant to Sections 16120 and 16120.1.

(f) The department or the licensed adoption agency shall inform the prospective adoptive family that the adoptive parents will continue to receive benefits in the agreed upon amount unless one of the following occurs:

(1) The department determines that the adoptive parents are no longer legally responsible for the support of the child.

(2) The department determines that the child is no longer receiving support from the adoptive family.

(3) The adoption assistance payment exceeds the amount that the child would have been eligible for in a licensed foster home.

(4) The adoptive parents demonstrate a need for an increased payment.

(5) The adoptive parents voluntarily reduce or terminate payments.

(6) The adopted child has an extraordinary need that was not anticipated at the time the amount of the adoption assistance was originally negotiated.

SEC. 3. Section 16120.05 of the Welfare and Institutions Code is amended to read:

16120.05. The adoption assistance agreement shall, at a minimum, specify the amount and duration of assistance. The date for reassessment of the child's needs shall be set at the time of the initial negotiation of the adoption assistance agreement, and shall, thereafter be set at each subsequent reassessment. The interval between any reassessments may not exceed two years.

The adoption assistance agreement shall also specify the responsibility of the adopting family for reporting changes in circumstances that might negatively affect their ability to provide for the identified needs of the child.

SEC. 4. Section 16121.05 of the Welfare and Institutions Code is amended to read:

16121.05. (a) The department may recover any overpayments of financial assistance under the Adoption Assistance Program, and shall develop regulations that establish the means to recoup them, including an appropriate notice of action and appeal rights, when the department determines either of the following applies:

(1) The adoptive parents are no longer legally responsible for the support of the child.

(2) The child is no longer receiving support from the adoptive family.

(3) The adoptive family has committed fraud in its application for, or reassessment of, the adoption assistance.

(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement.

(c) Payment shall begin on or after the effective date of an adoption assistance agreement, or a deferred adoption assistance agreement, or a final decree of adoption, provided the adoption assistance agreement has been signed by all required parties prior to or at the time the adoption decree is issued by the court.

(d) Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be renewed, provided total benefits do not exceed five years. Prior to the end of the five-ygear period, if there is a continuing need related to a chronic health condition of the child that necessitated the initial financial assistance, the time period for which it may be given shall be determined by the department or the agency, but shall not extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child's health condition at the time of adoption, taking into consideration community resources.

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.

CHAPTER 548

An act to amend Section 8215 of the Education Code, relating to the Child Care Initiative Project.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 8215 of the Education Code is amended to read:

8215. (a) There is hereby established a project known as the California Child Care Initiative Project. It is the intent of the Legislature to promote and foster the project in cooperation with private corporations and local governments. The objective of the project is to increase the availability of quality child care programs in the state.

(b) For purposes of this section, the California Child Care Initiative Project means a project to expand the role and functions of selected resource and referral agencies in activities including needs assessment, recruitment and screening of providers, technical assistance, and staff development and training, in order to aid communities in increasing their capability in the number of child care spaces available and the quality of child care services offered.

(c) The Superintendent of Public Instruction shall allocate all state funds appropriated for the California Child Care Initiative Project for the purpose of making grants to those child care resource and referral agencies that have been selected as pilot sites for the project.

(d) The project shall ensure that each dollar of state funds allocated pursuant to subdivision (c) is matched by two dollars ($2) from other sources, including private corporations, the federal government, or local governments.

(e) The grants to the sites made available by the project shall be comprised of a combination of state funds and other funds pursuant to subdivision (d).

(f) The Superintendent of Public Instruction shall develop a data base for the project.

(g) Any reports filed on behalf of the project with the State Department of Education shall also be submitted to the Legislature.

CHAPTER 549

An act to amend Sections 1797.172 and 1798.200 of the Health and Safety Code, relating to emergency medical services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Paramedics with out-of-state criminal records have been unknowingly licensed by the California Emergency Medical Services Authority because the authority does not access federal criminal background information.

(b) Paramedics continue to move here from out of state because the wages and weather conditions in California make it a desirable place to work.

(c) Cases of physical and sexual abuse by paramedics have been proven and admitted.

SEC. 2. Section 1797.172 of the Health and Safety Code is amended to read:

1797.172. (a) The authority shall develop, and after the approval of the commission pursuant to Section 1799.50, shall adopt, minimum standards for the training and scope of practice for EMT-P.

(b) The approval of the director, in consultation with a committee of local EMS medical directors named by the EMS Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-Ps proposed by the medical director of a local EMS agency.

(c) Notwithstanding any other provision of law, the authority shall be the agency solely responsible for licensure and licensure renewal of EMT-Ps who meet the standards and are not precluded from licensure because of any of the reasons listed in subdivision (d) of Section 1798.200. Each application for licensure or licensure renewal shall require the applicant's social security number in order to establish the identity of the applicant and a fingerprint card in order to determine whether the applicant has any criminal convictions in this state or any other jurisdiction, including foreign countries. The authority shall obtain a second fingerprint card for submission to the Department of Justice to be forwarded to the Federal Bureau of

Investigation for processing from those applicants for licensure or licensure renewal who have not continuously resided in the state for the previous seven years, or when the authority has been presented with credible evidence that the applicant has a criminal history outside of California. The information obtained as a result of obtaining the applicant's social security number and fingerprint card or cards shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure or licensure renewal pursuant to this division. A fingerprint card may not be required for licensure renewal upon determination by the authority that a fingerprint card was already obtained during initial licensure, or a previous licensure renewal, provided that the license has not lapsed and the applicant has resided continuously in the state since the initial licensure.

(d) The authority shall charge fees for the licensure and licensure renewal of EMT-Ps in an amount sufficient to support the authority's licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The basic fee for licensure or licensure renewal of an EMT-P shall not exceed one hundred twenty-five dollars ($125). Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal, including, but not limited to, any of the following services:

(1) Initial application for licensure as an EMT-P.

(2) Competency testing, the fee for which shall not exceed thirty dollars ($30), except that an additional fee may be charged for the cost of any services that provide enhanced availability of the exam for the convenience of the EMT-P, such as on-demand electronic testing.

(3) Fingerprint and criminal record check. The applicant shall, if applicable according to subdivision (c), submit two fingerprint cards for criminal record checks with the Department of Justice and the Federal Bureau of Investigation.

(4) Out-of-state training equivalency determination.

(5) Verification of continuing education for a lapse in licensure.

(6) Replacement of a lost licensure card. The fees charged for individual services shall be set so that the total fees charged to EMT-Ps shall not exceed the authority's actual total cost for the EMT-P licensure program.

(e) The authority may provide nonconfidential, nonpersonal information relating to EMS programs to interested persons upon request, and may establish and assess fees for the provision of this information. These fees shall not exceed the costs of providing the information.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the EMT-P program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall

be transmitted to the authority for deposit into the Emergency Medical Services Personnel Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

SEC. 3. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. (a) The medical director of the local EMS agency may, in accordance with Chapter 6 (commencing with Section 100206) of Division 9 of Title 22 of the California Code of Regulations, deny, suspend, or revoke any EMT-I or EMT-II certificate issued under this division, or may place any EMT-I or EMT-II certificate holder on probation, upon the finding by that medical director of the occurrence of any of the actions listed in subdivision (c). The authority shall ensure that the local EMS agency's disciplinary policies and procedures are, at a minimum, as effective in protecting the due process rights of any EMT-I or EMT-II certificate holder as those in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

(2) Gross negligence.

(3) Repeated negligent acts.

(4) Incompetence.

(5) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.

(8) Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.

(9) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

(11) Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.

(12) Unprofessional conduct exhibited by any of the following:

(A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

(B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 to 56.6, inclusive, of the Civil Code.

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the California Emergency Medical Services Authority to implement a federal background check process as soon as possible to ensure the timely investigation of certain persons applying for licensure as a paramedic who have resided out of state or may have a criminal history outside of California.

CHAPTER 550

An act to amend Section 13.5 of the Elections Code, to amend Sections 27000.8, 27000.9, 27063, 30063, 37361, 56332, 56853, 56857, 61107, 65307, 65850, 65850.4, 65956, 66451.2, 66458, 66498.1, 66498.2, and 66498.3 of, and to repeal Section 77202.5 of, the Government Code, to amend Sections 4730.6, 13114.2, and 13890 of the Health and Safety Code, and to amend Sections 98.02, 99, 4986.3, and 11005 of the Revenue and Taxation Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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 1999 Local Agency Omnibus Act.

(b) The Legislature finds and declares that Californians desire their government to be run efficiently and economically, and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own operating costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor, noncontroversial statutory changes relating to public agencies into a single measure.

SEC. 5. Section 13.5 of the Elections Code is amended to read:

13.5. (a) (1) Notwithstanding subdivision (a) of Section 13, no person shall be considered a legally qualified candidate for any of the offices set forth in subdivision (b) unless that person has filed a declaration of candidacy, nomination papers, or statement of write-in candidacy, accompanied by documentation, including, but not necessarily limited to, certificates, declarations under penalty of perjury, diplomas, or official correspondence, sufficient to establish, in the determination of the official with whom the declaration or statement is filed, that the person meets each qualification established for service in that office by the provision referenced in subdivision (b).

(2) The provision of "documentation," for purposes of compliance with the requirements of paragraph (1), may include the submission of either an original, as defined in Section 255 of the Evidence Code, or a duplicate, as defined in Section 260 of the Evidence Code.

(b) This section shall be applicable to the following offices and qualifications therefor:

(1) For the office of county auditor, the qualifications set forth in Sections 26945 and 26946 of the Government Code.

(2) For the office of county district attorney, the qualifications set forth in Sections 24001 and 24002 of the Government Code.

(3) For the office of county sheriff, the qualifications set forth in Section 24004.3 of the Government Code.

(4) For the office of county superintendent of schools, the qualifications set forth in Sections 1205 to 1208, inclusive, of the Education Code.

(5) For the office of judge of the municipal court, the qualifications set forth in Article 4 (commencing with Section 71140) of Chapter 6 of Title 8 of the Government Code.

(6) For the office of judge of the superior court, the qualifications set forth in Section 15 of Article VI of the California Constitution.

(7) For the office of county treasurer, county tax collector, or county treasurer-tax collector, the qualifications set forth in Section 27000.7 of the Government Code, provided that the board of supervisors has adopted the provisions of that section pursuant to Section 27000.8 of the Government Code.

SEC. 6. Section 27000.8 of the Government Code is amended to read:

27000.8. Any duly elected county treasurer, county tax collector, or county treasurer-tax collector serving in that office on January 1, 1996, may serve for his or her remaining term of office during which period of time the requirements of this section shall not apply. After the election of a county treasurer, county tax collector, or county treasurer-tax collector to office, that person shall complete a valid continuing course of study as prescribed in this section, and shall during the person's four-year term of office on or before June 30 of the fourth year, render to the State Controller a certification indicating that the person has successfully completed a continuing education program consisting of, at a minimum, 48 hours, or an equivalent amount of continuing education units within the discipline of treasury management, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any elected county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

SEC. 7. Section 27000.9 of the Government Code is amended to read:

27000.9. Notwithstanding any other requirement of law, any duly appointed county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector shall, beginning in 2000, complete a valid continuing course of study as prescribed in this section, and shall, on or before June 30 of each two-year period, render to the State Controller, a certification indicating that the county officer has successfully completed a

continuing education program consisting of, at a minimum, 24 hours or an equivalent amount of continuing education units within the discipline of treasury management, public finance, public administration, governmental accounting, or directly related subjects, offered by a recognized state or national association, institute, or accredited college or university, or the California Debt and Investment Advisory Commission, that provides the requisite educational programs prescribed in this section. The willful or negligent failure of any county officer serving in the capacity of county treasurer, county tax collector, or county treasurer-tax collector to comply with the requirements of this section shall be deemed a violation of this section.

SEC. 8. Section 27063 of the Government Code is amended to read:

27063. Not later than the 25th day of each month, the treasurer, or, if the auditor has a written agreement with the treasurer, the auditor, shall file with the board of supervisors a detailed report of all money received and disbursed by him or her during the preceding report period which shall be no less frequent than monthly, so that the receipts into the treasury and the amounts of disbursements for the period will distinctly appear. The report shall be filed and preserved by the clerk of the board.

SEC. 9. Section 30063 of the Government Code is amended to read:

30063. (a) The Supplemental Law Enforcement Services Fund (SLESF) in each county or city is to be expended exclusively as required by this chapter. Moneys in that fund shall not be transferred to, or intermingled with, the moneys in any other fund in the county or city treasury, except that moneys may be transferred from the SLESF to the county's or city's general fund to the extent necessary to facilitate the appropriation and expenditure of those transferred moneys in the manner required by this chapter.

(b) Moneys in a SLESF may only be invested in safe and conservative investments in accordance with those standards of prudent investment applicable to the investment of trust moneys. The treasurer of the county and each city shall provide a monthly SLESF investment report to either the police chief or the county sheriff and district attorney, as applicable.

(c) Each year, on or before the date of the duly noticed public hearing required pursuant to paragraph (1) of subdivision (c) of Section 30061, the county auditor and city treasurer shall detail and summarize allocations from the county's or city's SLESF, as applicable, in a written, public report filed with the Supplemental Law Enforcement Oversight Committee (SLEOC), the county board of supervisors or city council, as applicable, for the entirety of the immediately preceding fiscal year, and the county sheriff or police chief, as applicable.

(d) A summary of the annual reports required in subdivision (c) shall be submitted in a standardized format to be developed by the Controller, in conjunction with the California District Attorney's Association, California Police Chief's Association, California State Sheriff's Association, California Peace Officer's Association, California County Auditor's Association, and California Municipal Treasurer's Association, by each SLEOC to the Controller on or before October 15, 1998, and each year thereafter. Upon request, the Controller shall make a copy of the summarized reports available to the Governor and the Legislature.

SEC. 10. Section 37361 of the Government Code is amended to read:

37361. (a) The legislative body may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith.

(b) The legislative body may provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both.

(c) Until January 1, 1995, subdivision (b) shall not apply to noncommercial property owned by a religiously affiliated association or corporation not organized for private profit, whether incorporated as a religious or public benefit corporation, unless the owner of the property does not object to its application. This subdivision does apply to a charter city. Nothing in this subdivision shall be construed to infringe on the authority of the legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994. Subdivision (b) shall not apply to noncommercial property owned by any association or corporation that is religiously affiliated and not organized for private profit, whether the corporation is organized as a religious corporation, or as a public benefit corporation, provided that both of the following occur:

(1) The association or corporation objects to the application of the subdivision to its property.

(2) The association or corporation determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.

(d) Nothing in this subdivision shall be construed to infringe on the authority of any legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994, or to

authorize any legislative body to override the determination made pursuant to paragraph (2) of subdivision (c). This subdivision shall apply to a charter city.

SEC. 12. Section 56332 of the Government Code is amended to read:

56332. (a) The commission of any county shall be enlarged by two members if, pursuant to Chapter 5 (commencing with Section 56450), the commission of any county does both of the following:

(1) Orders representation of special districts upon the commission.

(2) Adopts regulations affecting the functions and services of special districts.

In addition to the commission members selected pursuant to Sections 56325, 56329, and 56330, two commission members shall be selected by an independent special district selection committee to represent special districts in the county.

(b) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(c) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(d) (1) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and

deliver, or send by certified mail, to each independent special district one ballot and voting instructions.

(2) As an alternative to the delivery or certified mail, the executive officer, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(e) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(f) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

SEC. 13. Section 56853 of the Government Code is amended to read:

56853. The executive officer shall mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

(a) The chief petitioners, if any, where the proceedings for change of organization were initiated by petition.

(b) Each affected local agency whose boundaries would be changed by the proposal.

(c) The conducting authority, by certified mail, return receipt requested. The copy of the resolution mailed to the conducting authority shall be certified as a true and correct copy by the executive officer. As an alternative to mailing the resolution by certified mail, the executive officer, with the prior concurrence of the conducting authority, may transmit the resolution by electronic mail, provided that the executive officer shall retain written evidence of the receipt of that resolution.

SEC. 14. Section 56857 of the Government Code is amended to read:

56857. (a) Any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of any resolution adopted by the commission making determinations. The request shall state the specific modification to the resolution being requested.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations or prior to the adoption of a resolution by the conducting authority pursuant to Chapter 4 (commencing with Section 57075), whichever is earlier. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall immediately notify the conducting authority which shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the conducting authority is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations,

but shall direct the executive officer to notify the conducting authority of its action. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

SEC. 15. Section 61107 of the Government Code is amended to read:

61107. Once the chief petitioners have filed a sufficient petition or a legislative body has filed a resolution of application, the local agency formation commission shall proceed pursuant to Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5.

SEC. 16. Section 65307 of the Government Code is amended to read:

65307. On or before October 1 of each year, the planning agency of each city or county shall comply with the provisions of Section 65400.

SEC. 17. Section 65850 of the Government Code is amended to read:

65850. The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following:

(a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.

(b) Regulate signs and billboards.

(c) Regulate all of the following:

(1) The location, height, bulk, number of stories, and size of buildings and structures.

(2) The size and use of lots, yards, courts, and other open spaces.

(3) The percentage of a lot which may be occupied by a building or structure.

(4) The intensity of land use.

(d) Establish requirements for offstreet parking and loading.

(e) Establish and maintain building setback lines.

(f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.

SEC. 18. Section 65850.4 of the Government Code is amended to read:

65850.4. (a) The legislative body of any county or city may regulate, pursuant to a content neutral ordinance, the time, place, and manner of operation of sexually oriented businesses, when the

ordinance is designed to serve a substantial governmental interest, does not unreasonably limit alternative avenues of communication, and is based on narrow, objective, and definite standards. The legislative body is entitled to rely on the experiences of other counties and cities and on the findings of court cases in establishing the reasonableness of the ordinance and its relevance to the specific problems it addresses, including the harmful secondary effects that the business may have on the community and its proximity to churches, schools, residences, establishments dispensing alcohol, and other sexually oriented businesses.

(b) For purposes of this section, a sexually oriented business is one whose primary purpose is the sale or display of matter that, because of its sexually explicit nature, may, pursuant to state law or local regulatory authority, be offered only to persons over the age of 18 years.

(c) This section shall not be construed to preempt the legislative body of any city or county from regulating a sexually oriented business or similar establishment in the manner and to the extent permitted by the United States Constitution and the California Constitution.

(d) It is the intent of the Legislature to authorize the legislative body of any city or county to enter into a legally sanctioned and appropriate cooperative agreement, consortium, or joint powers authority with other adjacent cities or counties regarding regulation of established negative secondary effects of adult or sexually oriented businesses if the actions taken by the legislative body are consistent with this section.

(e) The Legislature finds and declares that in order to encourage the legislative body of a city or county in regulating adult or sexually oriented businesses or similar businesses under this section, the legislative body may consider any harmful secondary effects such a business may have on adjacent cities and counties and its proximity to churches, schools, residents, and other businesses located in adjacent cities or counties.

SEC. 19. Section 65956 of the Government Code is amended to read:

65956. (a) If any provision of law requires the lead agency or responsible agency to provide public notice of the development project or to hold a public hearing, or both, on the development project and the agency has not provided the public notice or held the hearing, or both, at least 60 days prior to the expiration of the time limits established by Sections 65950 and 65952, the applicant or his or her representative may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to provide the public notice or hold the hearing, or both, and the court shall give the proceedings preference over all other civil actions or proceedings, except older matters of the same character.

(b) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, the failure to act shall be deemed approval of the permit application for the development project. However, the permit shall be deemed approved only if the public notice required by law has occurred. If the applicant has provided seven days advance notice to the permitting agency of the intent to provide public notice, then no earlier than 60 days from the expiration of the time limits established by Sections 65950 and 65952, an applicant may provide the required public notice using the distribution information provided pursuant to Section 65941.5. If the applicant chooses to provide public notice, that notice shall include a description of the proposed development substantially similar to the descriptions which are commonly used in public notices by the permitting agency, the location of the proposed development, the permit application number, the name and address of the permitting agency, and a statement that the project shall be deemed approved if the permitting agency has not acted within 60 days. If the applicant has provided the public notice required by this section, the time limit for action by the permitting agency shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the permitting agency shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65944, inclusive, may constitute grounds for disapproving a development project.

(d) Nothing in this section shall diminish the permitting agency's legal responsibility to provide, where applicable, public notice and hearing before acting on a permit application.

SEC. 20. Section 66451.2 of the Government Code is amended to read:

66451.2. The local agency may establish reasonable fees for the processing of tentative, final and parcel maps and for other procedures required or authorized by this division or local ordinance, but the fees shall not exceed the amount reasonably required by such agency to administer the provisions of this division. The fees shall be imposed pursuant to the Mitigation Fee Act, consisting of Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1.

SEC. 21. Section 66458 of the Government Code is amended to read:

66458. (a) The legislative body shall, at the meeting at which it receives the map or, at its next regular meeting after the meeting at which it receives the map, approve the map if it conforms to all the requirements of this chapter and any local subdivision ordinance

applicable at the time of approval or conditional approval of the tentative map and any rulings made thereunder. If the map does not conform, the legislative body shall disapprove the map.

(b) If the legislative body does not approve or disapprove the map within the prescribed time, or any authorized extension thereof, and the map conforms to all requirements and rulings, it shall be deemed approved, and the clerk of the legislative body shall certify or state its approval thereon.

(c) The meeting at which the legislative body receives the map shall be the date on which the clerk of the legislative body receives the map.

(d) The legislative body may provide, by ordinance, for the approval or disapproval of final maps by the city or county engineer, surveyor, or other designated official. The legislative body may also provide, by ordinance, that the official may accept, accept subject to improvement, or reject dedications and offers of dedications that are made by a statement on the map. Any ordinance adopted pursuant to this subdivision shall provide that (1) the designated official shall notify the legislative body at its next regular meeting after the official receives the map that the official is reviewing the map for final approval, (2) the designated official shall approve or disapprove the final map within 10 days following the meeting of the legislative body that was preceded by the notice in (4) below, (3) the designated official's action may be appealed to the legislative body, (4) the clerk of the legislative body shall provide notice of any pending approval or disapproval by a designated official, which notice shall be attached and posted with the legislative body's regular agenda and shall be mailed to interested parties who request notice, and (5) the legislative body shall periodically review the delegation of authority to the designated official. Except as specifically authorized by this subdivision, the processing of final maps shall conform to all procedural requirements of this division.

SEC. 22. Section 66498.1 of the Government Code is amended to read:

66498.1. (a) Whenever a provision of this division requires that a tentative map be filed, a vesting tentative map may instead be filed.

(b) When a local agency approves or conditionally approves a vesting tentative map, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2. However, if Section 66474.2 is repealed, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(c) Notwithstanding subdivision (b), the local agency may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map. If the final map is approved, the rights conferred by this section shall be subject to the periods of time set forth in subdivisions (b), (c), and (d) of Section 66498.5.

(e) Consistent with subdivision (b), an approved or conditionally approved vesting tentative map shall not limit a local agency from imposing reasonable conditions on subsequent required approvals or permits necessary for the development and authorized by the ordinances, policies, and standards described in subdivision (b).

SEC. 23. Section 66498.2 of the Government Code is amended to read:

66498.2. If the ordinances, policies, or standards described in subdivision (b) of Section 66498.1 are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, or his or her assignee, at any time prior to the expiration of the vesting tentative map pursuant to subdivisions (b), (c), and (d) of Section 66498.5, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.

SEC. 24. Section 66498.3 of the Government Code is amended to read:

66498.3. (a) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The local agency may deny a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding subdivision (b) of Section 66498.1, confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

(b) The rights conferred by this section shall be for the time periods set forth in subdivisions (b), (c), and (d) of Section 66498.5.

SEC. 25. Section 77202.5 of the Government Code is repealed.

SEC. 26. Section 4730.6 of the Health and Safety Code is amended to read:

4730.6. (a) Notwithstanding Sections 4730, 4730.1, and 4730.2 or any other provision of law, the governing board of the Ventura

Regional Sanitation District shall be a board of directors appointed in accordance with this section. Unless the context otherwise indicates, as used in this section, "district" means the Ventura Regional Sanitation District.

(b) The legislative body of each city located wholly or partially within the district's boundaries shall designate one of its members to be a member of the district's board of directors. Each legislative body may designate one of its members as an alternate to act in the place of its regular member in the case of the absence or disqualification of the regular member. An alternate member shall have the full voting rights of the regular member.

(c) The special district committee, which shall consist of the presiding officers of all special districts that have a governing board separately elected, in whole or in part, from any board of supervisors or city council, and would be entitled to representation on the Ventura Regional Sanitation District Board of Directors under Section 4730.1, if that section were applicable to the Ventura Regional Sanitation District, shall designate one separately elected member of a board of directors of a special district represented on the committee to be a member of the district's board of directors. The special district committee may designate one separately elected member as an alternate to act in the place of the regular member in the case of the absence or disqualification of the regular member. An alternate member shall have the full voting rights of the regular member.

(d) Each member of the district's board of directors shall have one vote.

(e) No action shall be taken at any meeting of the district's board of directors unless a majority of all authorized members of the board of directors is in attendance.

(f) A majority of the members of the board of directors present shall be required to approve or otherwise act on any matter except as otherwise required by law.

SEC. 26.5. Section 13114.2 of the Health and Safety Code is amended to read:

13114.2. (a) On or before January 1, 2000, the State Fire Marshal shall adopt regulations and standards to control the quality and installation of burglar bars and safety release mechanisms for emergency escape/rescue windows or doors installed, marketed, distributed, offered for sale, or sold in this state.

(b) On and after July 1, 2000, no person shall install, market, distribute, offer for sale, or sell burglar bars and safety release mechanisms for emergency escape/rescue windows or doors in this state unless the burglar bars and safety release mechanisms have been approved by a testing laboratory recognized by the State Fire Marshal.

(c) As used in this section:

(1) "Burglar bars" means security bars located on the inside or outside of a door or window of a residential dwelling.

(2) "Residential dwelling" means a house, apartment, motel, hotel, or other type of residential dwelling subject to the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13) and a manufactured home, mobilehome, and multiunit manufactured housing as defined in the Mobilehomes-Manufactured Housing Act of 1980 (Part 2 (commencing with Section 18000) of Division 13).

(3) "Emergency escape/rescue windows or doors" means the exits required by Section 1-310.4 of the 1998 edition of the California Building Standards Code, or its successor.

SEC. 27. Section 13890 of the Health and Safety Code is amended to read:

13890. On or before June 30 of each year, a district board shall adopt a preliminary budget which shall conform to the accounting and budgeting procedures for special districts contained in Subchapter 3 (commencing with Section 1031.1) of, and Article 1 (commencing with Section 1121) of Subchapter 4 of, Chapter 2 of Division 2 of Title 2 of the California Code of Regulations.

SEC. 28. 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) Commencing with the 1999-2000 fiscal year and each fiscal year thereafter, the auditor shall compute an amount that is equal to 60 percent of the total amount transferred to all qualifying cities pursuant to this section. The auditor shall certify that amount to the Controller for allocation of funds to the county pursuant to subdivision (a) of Section 11005.

(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. 29. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56842 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56845 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56842 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56842 of the Government Code to the district and shall make the adjustment as determined by Section 56842 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 60 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56828 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 60-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) In the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, an exchange of property tax revenues between the city and the county shall be determined in accordance with subdivision (e) if that exchange of revenues is not otherwise determined pursuant to either of the following:

(A) Negotiations completed within the applicable period or periods as prescribed by this subdivision.

(B) A master property tax exchange agreement among those local agencies, as described in subdivision (d).

For purposes of this paragraph, a qualified annexation of unincorporated territory means an annexation, as so described, for which proceedings before the relevant local agency formation commission are initiated, as provided in Section 56651 of the Government Code, on or after January 1, 1998, and on or before January 1, 2005.

(9) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon

notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4), (5), and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) (1) An exchange of property tax revenues that is required by paragraph (8) of subdivision (b) to be determined pursuant to this subdivision shall be determined in accordance with all of the following:

(A) The city and the county shall mutually select a third-party consultant to perform a comprehensive, independent fiscal analysis, funded in equal portions by the city and the county, that specifies estimates of all tax revenues that will be derived from the annexed territory and the costs of city and county services with respect to the annexed territory. The analysis shall be completed within a period not to exceed 30 days, and shall be based upon the general plan or adopted plans and policies of the annexing city and the intended uses for the annexed territory. If, upon the completion of the analysis period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (B) shall apply.

(B) The city and the county shall mutually select a mediator, funded in equal portions by those agencies, to perform mediation for a period of not to exceed 30 days. If, upon the completion of the mediation period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (C) shall apply.

(C) The city and the county shall mutually select an arbitrator, funded in equal portions by those agencies, to conduct an advisory arbitration with the city and the county for a period of not to exceed 30 days. At the conclusion of this arbitration period, the city and the county shall each present to the arbitrator its last and best offer with respect to the exchange of property tax revenues. The arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.

(2) Proceedings under this subdivision shall be concluded no more than 150 days after the auditor provides the notification pursuant to paragraph (3) of subdivision (b), unless one of the periods specified in this subdivision is extended by the mutual agreement of the city and the county. Notwithstanding any other provision of law, except for those conditions that are necessary to implement an exchange of property tax revenues determined pursuant to this subdivision, the local agency formation commission shall not impose any fiscal conditions upon a city's qualified annexation of unincorporated territory that is subject to this subdivision.

(f) Except as otherwise provided in subdivision (g), for the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the

Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(j) For purposes of subdivision (i), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these

negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(k) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

SEC. 30. 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 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Division 2 of Part 1 of Title 5 of the Government Code) 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. 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 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. 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. As used in this section, "city" means any city, county, city and county, special district, school district, joint powers authority, or any other municipal corporation, district, or political subdivision of the state.

SEC. 31. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. (a) After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving the amount determined necessary by the Pooled Money Investment Board to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, commencing with the 1989–90 fiscal year, the Controller shall deduct that amount which is necessary to make the allocation provided for in subdivision (j) of Section 98.02. Eighty-one and one-quarter percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the manner provided by subdivisions (c) and (d).

(b) Eighteen and three-quarters percent of the balance shall be allocated, as follows:

(1) (A) Commencing with the 1988–89 fiscal year, the Controller shall allocate to each city that existed but did not levy a property tax in the 1977–78 fiscal year, other than for voter-approved indebtedness, an amount equal to the total amount which each of those cities would have received in that fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and Section 26483 of this code, as if those sections were operative in that fiscal year in the form in which they existed on June 1, 1981. For each fiscal year thereafter, the Controller shall increase the amount for each city computed pursuant to this paragraph by the percent by which the revenue to the Motor Vehicle License Fee Account increased over the revenue for the previous fiscal year.

(B) (i) For each fiscal year following the 1988–89 fiscal year in which a city subject to subparagraph (A) receives a distribution of property tax revenue pursuant to Section 97.35, 97.37, or 97.38, the amount to be allocated to the city pursuant to subparagraph (A) shall be reduced by the amount of the distribution made pursuant to those sections.

(ii) No allocation shall be made to a city pursuant to subparagraph (A) in the first fiscal year in which the amount distributed to a city pursuant to Section 97.35, 97.37, or 97.38 equals or exceeds the amount that would have been allocated to that city pursuant to subparagraph (A) or in any fiscal year thereafter.

(iii) Any amount not allocated to a city pursuant to subparagraph (A) as a result of the operation of this subparagraph shall be allocated to eligible cities in accordance with clause (iv).

(iv) Commencing with the 1989–90 fiscal year, the Controller shall allocate the amount determined in clause (iii) for each fiscal year to each eligible city in the proportion that the population of each eligible city bears to total population of all eligible cities.

For purposes of this clause, "eligible city" means any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1987–88 fiscal year which is less than 10 percent of the amount of property tax revenue computed for the 1987–88 fiscal year in accordance with the method described in subdivision (c) of Section 97.35.

The auditor shall notify the Controller of his or her determination of those cities within the county which are eligible cities.

(2) Each month the Controller shall allocate the remainder of the amount determined pursuant to this subdivision to counties and cities and counties in an amount for each county and city and county equal to the revenue received in the 1982–83 fiscal year pursuant to former Section 16111, subdivision (c) of former Section 16113, and former Section 16113.7 of the Government Code. These amounts shall be determined by the Controller with the concurrence of the Director of Finance. The Controller shall allocate any remaining amount determined pursuant to this subdivision to counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined pursuant to subdivision (d).

(c) Fifty percent of the payments required by subdivision (a) shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(d) Fifty percent of the payments required by subdivision (a) shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6.

(e) Money disbursed by the Controller to cities and counties pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

(f) Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of the certification.

SEC. 32. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Delays by independent testing laboratories in developing standards for the quality and installation of burglar bars and safety release mechanisms make it impossible for the State Fire Marshal to meet the deadlines for the adoption of regulations. Rather than adopt poorly researched safety standards, it is necessary to amend Section 13114.2 of the Health and Safety Code by Section 26.5 of this act to allow sufficient time to develop standards and adopt regulations for burglar bars and safety release mechanisms.

Existing defaults on bonds issued by local agencies pursuant to the Marks-Roos Community Facilities Act of 1982 have resulted in severe economic and fiscal hardships on property owners, local agencies, and private investors. To speed the resolution of those impaired investments, it is critical to amend Section 4986.3 of the Revenue and Taxation Code by Section 30 of this act at the earliest possible time.

SEC. 33. Except for Sections 26.5, 30, and 32 and this section, the provisions of this act shall become operative on January 1, 2000.

CHAPTER 551

An act to amend Section 10003 of, and to add Section 10006 to the Unemployment Insurance Code, relating to employment services.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 10003 of the Unemployment Insurance Code is amended to read:

10003. (a) Subject to subdivision (d), the department shall distribute 85 percent of the federal welfare-to-work grant funds to private industry councils or alternate local administrative entities designated by the Governor, according to the variables defined in the federal welfare-to-work program, and consistent with the following formula:

(1) A weight of 55 percent shall be given based on the relative number, as determined pursuant to federal law, by which the population in the area below the poverty line exceeds 7.5 percent of the total population.

(2) A weight of 30 percent shall be based upon the relative number of adults residing in the plan's service area who are receiving assistance under a state program funded in part through the federal Temporary Assistance for Needy Families grant program or the federal Aid to Families with Dependent Children Program for at least 30 months.

(3) A weight of 15 percent shall be based upon the relative number, as determined pursuant to federal law, of unemployed individuals residing in the plan's service area.

(b) Changes in the allocation formula established pursuant to subdivision (a) that may be needed for subsequent fiscal years may be implemented by the department only after public hearings have been conducted regarding the proposed changes. Any change in that allocation formula may be implemented not sooner than 30 days after notification in writing to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the appropriate committees and subcommittees in each house of the Legislature that considers the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee, may in each instance determine.

(c) Subject to subdivision (d), the department, at the direction of the Governor, shall distribute the remaining 15 percent of federal welfare-to-work grant funds, less the amount necessary to administer the program, to state and local projects that will assist in moving eligible participants into unsubsidized employment. The Governor shall take into special consideration the needs of rural areas in distributing funds under this subdivision. Funds allocated pursuant to this subdivision shall be distributed to employers, private nonprofit organizations, and for-profit and public entities. Payments of these funds shall be contingent upon performance outcomes. Proposals submitted for state and local projects shall include comments by the local private industry council or alternate local administrative entity,

and the county welfare department, except in cases where the local private industry council or alternative local administrative entity, or the county welfare department, is an applicant for grants under this section, to ensure that grants that are approved will be consistent with local plans for moving eligible participants into unsubsidized employment.

(d) Not more than 15 percent of federal welfare-to-work funds may be retained by the department for the cost of state administration of the welfare-to-work program.

SEC. 2. Section 10006 is added to the Unemployment Insurance Code, to read:

10006. For the purposes of fully implementing this program and the CalWORKs program, as established in Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, the Employment Development Department and the State Department of Social Services shall initiate, by July 1, 2000, the adoption of regulations interpreting the "charitable choice," or state option provisions contained in Section 604a of Title 42 of the United States Code. The regulations shall be consistent with federal law and the Establishment Clause in Amendment 1 of the United States Constitution and in Section 4 of Article I of the California Constitution.

CHAPTER 552

An act to amend Section 16010 of, and to add Section 369.5 to, the Welfare and Institutions Code, relating to children.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 28, 1999.]

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

SECTION 1. Section 369.5 is added to the Welfare and Institutions Code, to read:

369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and

a description of any side effects of the medication. On or before July 1, 2000, the Judicial Council shall adopt rules of court and develop appropriate forms for implementation of this section.

(b) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(c) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

SEC. 2. Section 16010 of the Welfare and Institutions Code is amended to read:

16010. (a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers, the child's grade level performance, the child's school record, assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement, a record of the child's immunizations and allergies, the child's known medical problems, the child's current medications, past health problems and hospitalizations, a record of the child's relevant mental health history, the child's known mental health condition and medications, and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. If any other provision of law imposes more stringent information requirements, then that section shall prevail.

(b) Additionally, any court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (b) of Section 366.22 shall include a copy of the current health and education summary described in subdivision (a).

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caretaker with the child's current health and education summary as described in subdivision (a). For each subsequent placement, the child protective agency shall provide the caretaker with a current summary as described in subdivision (a) within 48 hours of the placement.

(d) The child's caretaker shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caretaker. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caretaker whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with such information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee family foster agency shall take all necessary steps to assist the caretaker in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a).

(e) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

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.

CHAPTER 553

An act to amend Section 3700.5 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 3700.5 of the Labor Code is amended to read:

3700.5. The failure to secure the payment of compensation as required by this article by one who knew, or because of his or her

knowledge or experience should be reasonably expected to have known, of the obligation to secure the payment of compensation, is a misdemeanor punishable by imprisonment in the county jail for up to one year, or by a fine of up to ten thousand dollars ($10,000), or by both that imprisonment and fine.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 554

An act to amend Sections 2671, 2675, 2675.5, 2676, 2677, and 2680 of, and to add Sections 2673.1, and 2684 to, the Labor Code, relating to labor, and making an appropriation therefor.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 2671 of the Labor Code is amended to read:

2671. As used in this part:

(a) "Person" means any individual, partnership, corporation, limited liability company, or association, and includes, but is not limited to, employers, manufacturers, jobbers, wholesalers, contractors, subcontractors, and any other person or entity engaged in the business of garment manufacturing.

"Person" does not include any person who manufactures garments by himself or herself, without the assistance of a contractor, employee, or others; any person who engages solely in that part of the business engaged solely in cleaning, alteration, or tailoring; any person who engages in the activities herein regulated as an employee with wages as his or her sole compensation; or any person as provided by regulation.

(b) "Garment manufacturing" means sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for sale or resale by any person or any persons contracting to have those operations performed and other operations and practices in the apparel industry as may be identified in regulations of the

Department of Industrial Relations consistent with the purposes of this part. The Department of Industrial Relations shall adopt, and may from time to time amend, regulations to clarify and refine this definition to be consistent with current and future industry practices, but the regulations shall not limit the scope of garment manufacturing, as defined in this subdivision.

(c) "Commissioner" means the Labor Commissioner.

(d) "Contractor" means any person who, with the assistance of employees or others, is primarily engaged in sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for another person. "Contractor" includes a subcontractor that is primarily engaged in those operations.

SEC. 2. Section 2673.1 is added to the Labor Code, to read:

2673.1. (a) To ensure that employees are paid for all hours worked, a person engaged in garment manufacturing, as defined in Section 2671, who contracts with another person for the performance of garment manufacturing operations shall guarantee payment of the applicable minimum wage and overtime compensation, as required by law, that are due from that other person to its employees that perform those operations.

(b) Where the work of two or more persons is being performed at the same worksite during the same payroll period, the liability of each person under this guarantee shall be limited to his or her proportionate share, as determined by the Labor Commissioner pursuant to paragraph (3) or (4) of subdivision (d).

(c) Employees may enforce this guarantee solely by filing a claim with the Labor Commissioner against the contractor and the guarantor or guarantors, if known, to recover unpaid wages. Guarantors whose identity or existence is unknown at the time the claim is filed may be added to the claim pursuant to paragraph (2) of subdivision (d).

(d) Claims filed with the Labor Commissioner for payment of wages pursuant to subdivision (c) shall be subject to the following procedure:

(1) Within 10 business days of receiving a claim pursuant subdivision (c), the Labor Commissioner shall give written notice to the employee, the contractor, and persons that may be guarantors of the nature of the claim and the date of the meet-and-confer conference on the claim. Within 10 business days of receiving the claim, the Labor Commissioner shall issue a subpoena duces tecum requiring the contractor to submit to the Labor Commissioner those books and records as may be necessary to investigate the claim and determine the identity of any potential guarantors for the payment of the wage claim, including, but not limited to, invoices for work performed for any and all persons during the period included in the

claim. Compliance with such a request for books and records, within 10 days of the mailing of the notice, shall be a condition of continued registration pursuant to Section 2675. At the request of any party, the Labor Commissioner shall provide to that party copies of all books and records received by the Labor Commissioner in conducting its investigation.

(2) Within 30 days of receiving a claim pursuant to subdivision (c), the Labor Commissioner shall send a notice of the claim and of the meet-and-confer conference to any other persons who may be guarantors with respect to the claim.

(3) Within 60 days of receiving a claim pursuant to subdivision (c), the Labor Commissioner shall hold a meet-and-confer conference with the employee, the contractor, and all known potential guarantors to attempt to resolve the claim. Prior to the meet-and-confer conference, the Labor Commissioner shall conduct and complete an investigation of the claim, shall make a finding and assessment of the amount of wages owed, and shall conduct an investigation and determine each guarantor's proportionate share of liability. The investigation shall include, but not be limited to, interviewing the employee and his or her witnesses and making a finding and assessment of back wages due, if any, to the employee. An employee's claim of hours worked and back wages due shall be presumed valid and shall be the Labor Commissioner's assessment, unless the contractor provides specific, compelling, and reliable written evidence to the contrary and is able to produce records pursuant to subdivision (d) of Section 1174 or Section 2673 that are accurate and contemporaneous, itemized wage deduction statements pursuant to Section 226, bona fide complete and accurate payroll records, and evidence of the precise hours worked by the employee for each pay period during the period of the claim. If the Labor Commissioner finds falsification by the contractor of payroll records submitted for any pay period of the claim, any other payroll records submitted by the contractor shall be presumed false and disregarded.

The Labor Commissioner shall present his or her findings and assessment of the amount of wages owed and each guarantor's proportionate share thereof to the parties at the meet-and-confer conference and shall make a demand for payment of the amount of the assessment. If no resolution is reached, the Labor Commissioner shall, at the meet-and-confer conference, set the matter for hearing pursuant to paragraph (4). The Labor Commissioner's assessment, pursuant to this paragraph, of the amount of back wages due is solely for purposes of the meet-and-confer conference and shall not be admissible or be given any weight in the hearing conducted pursuant to paragraph (4). If the Labor Commissioner has not identified any potential guarantors after investigation and the matter is not resolved at the conclusion of the meet-and-confer conference, the

Commissioner shall proceed against the contractor pursuant to Section 98.

(4) The hearing shall commence within 30 days of, and shall be completed within 45 days of, the date of the meet-and-confer conference. The hearing may be bifurcated, addressing first the question of liability of the contractor and the guarantor or guarantors, and immediately thereafter the proportionate responsibility of the guarantors. The Labor Commissioner shall present his or her proposed findings of the guarantor's proportionate share at the hearing. Any party may present evidence at the hearing to support or rebut the proposed findings. Except as provided in this paragraph, the hearing shall be held in accordance with the procedure set forth in subdivisions (b) to (h), inclusive, of Section 98. It is the intent of the Legislature that these hearings be conducted in an informal setting preserving the rights of the parties.

(5) Within 15 days of the completion of the hearing, the Labor Commissioner shall issue an order, decision, or award with respect to the claim and shall file the order, decision, or award in accordance with Section 98.1.

(e) An employee shall be entitled to recover, from the contractor, liquidated damages in an amount equal to the wages unlawfully withheld, as set forth in Section 1194.2, and liquidated damages in an amount equal to unpaid overtime compensation due. A guarantor under subdivision (a) shall be liable for its proportionate share of those liquidated damages if the guarantor has acted in bad faith, including, but not limited to, failure to pay or unreasonably delaying payment to its contractor, unreasonably reducing payment to its contractor where it is established that the guarantor knew or reasonably should have known that the price set for the work was insufficient to cover the minimum wage and overtime pay owed by the contractor, asserting frivolous defenses, or unreasonably delaying or impeding the Labor Commissioner's investigation of the claim.

(f) If either the contractor or guarantor refuses to pay the assessment, and the employee prevails at the hearing, the party that refuses to pay shall pay the employee's reasonable attorney's fees and costs. If the employee rejects the assessment of the Labor Commissioner and prevails at the hearing, the employer shall pay the employee's reasonable attorney's fees and costs. The guarantor shall be jointly and severally liable for the contractor's share of the attorney's fees and costs awarded to an employee only if the Labor Commissioner determines that the guarantor acted in bad faith, including, but not limited to, failure to pay, unreasonably delaying payment to the contractor, unreasonably reducing payment to the contractor where it is established that the guarantor knew or reasonably should have known that the price set for the work was insufficient to cover the applicable minimum wage and overtime pay owed by the contractor, asserting frivolous defenses, or unreasonably

delaying or impeding the Labor Commissioner's investigation of the claim.

(g) Any party shall have the right to judicial review of the order, decision, or award of the Labor Commissioner made pursuant to paragraph (5) of subdivision (d) as provided in Section 98.2. As a condition precedent to filing an appeal, the contractor or the guarantor, whichever appeals, shall post a bond with the Commissioner in an amount equal to one and one-half times the amount of the award. No bond shall be required of an employee filing an appeal pursuant to Section 98.2. At the employee's request, the Labor Commissioner shall represent the employee in the judicial review as provided in Section 98.4.

(h) If the contractor or guarantor appeals the order, decision, or award of the Labor Commissioner and the employee prevails on appeal, the court shall order the contractor or guarantor, as the case may be, to pay the reasonable attorney's fees and costs of the employee incurred in pursuing his or her claim. If the employee appeals the order, decision, or award of the Labor Commissioner and the contractor or guarantor prevails on appeal, the court may order the employee to pay the reasonable attorney's fees and costs of the contractor employer or guarantor only if the court determines that the employee acted in bad faith in bringing the claim.

(i) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other provision of state or federal law. If a finding and assessment is not issued as specified and within the time limits in paragraph (3) of subdivision (d), the employee may bring a civil action for the recovery of unpaid wages pursuant to any other rights and remedies under any other provision of the laws of this state unless, prior to the employee bringing the civil action, the guarantor files a petition for writ of mandate within 10 days of the date the assessment should have been issued. If findings and assessments are not made, or a hearing is not commenced or an order, decision, or award is not issued within the time limits specified in paragraphs (4) and (5) of subdivision (d), any party may file a petition for writ of mandate to compel the Labor Commissioner to issue findings and assessments, commence the hearing, or issue the order, decision, or award. All time requirements specified in this section shall be mandatory and shall be enforceable by a writ of mandate.

(j) The Labor Commissioner may enforce the wage guarantee described in this section in the same manner as a proceeding against the contractor. The Labor Commissioner may, with or without a complaint being filed by an employee, conduct an investigation as to whether all the employees of persons engaged in garment manufacturing are being paid minimum wage or overtime compensation and, with or without the consent of the employees affected, commence a civil action to enforce the wage guarantee. Prior to commencing such a civil action and pursuant to rules of

practice and procedure adopted by the Labor Commissioner, the commissioner shall provide notice of the investigation to each guarantor and employee, issue findings and an assessment of the amount of wages due, hold a meet-and-confer conference with the guarantors and employees to attempt to resolve the matter, and provide for a hearing.

(k) Except as expressly provided in this section, this section shall not be deemed to create any new right to bring a civil action of any kind for unpaid minimum wages, overtime pay, penalties, wage assessments, attorney's fees, or costs against a registered garment manufacturer based on its use of any contractor that is also a registered garment manufacturer.

(*l*) The payment of the wage guarantee provided in this section shall not be used as a basis for finding that the registered garment manufacturer making the payment is a joint employer, coemployer, or single employer of any employees of a contractor that is also a registered garment manufacturer.

(m) The Labor Commissioner may, in his or her discretion, revoke the registration under this part of any registrant that fails to pay, on a timely basis, any wages awarded pursuant to this section, after the award has become final.

SEC. 3. Section 2675 of the Labor Code is amended to read:

2675. (a) For purposes of enforcing this part and Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and 227.5, Chapter 2 (commencing with Section 300) and Article 2 (commencing with Section 400) of Chapter 3 of Part 1 of this division, Sections 1195.5, 1197, 1197.5, and 1198, Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200), every person engaged in the business of garment manufacturing, shall register with the commissioner.

The commissioner shall not permit any person to register, nor shall the commissioner allow any person to renew registration, until all the following conditions are satisfied:

(1) The person has executed a written application therefor in a form prescribed by the commissioner, subscribed and sworn by the person, and containing:

(A) A statement by the person of all facts required by the commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to engage in the business of garment manufacturing if the registration is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed business of garment manufacturing together with the amount of their respective interests, except that in the case of a publicly traded corporation a listing of principal officers shall suffice.

(2) The commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) In the case of a person who has been cited and penalized within the prior three years under this part, the person has deposited or has on file a surety bond in the sum and form that the commissioner deems sufficient and adequate to ensure future compliance, not to exceed five thousand dollars ($5,000). The bond shall be payable to the people of California and shall be for the benefit of any employee of a registrant damaged by the registrant's failure to pay wages and fringe benefits, or for the benefit of any employee of a registrant damaged by a violation of Section 2677.5.

(4) The person has documented that a current workers' compensation insurance policy is in effect for the employees of the person seeking registration.

(5) The person has paid an initial or renewal registration fee to the commissioner. The fee for initial registration and for each registration renewal shall be established in an amount determined by the Labor Commissioner to be sufficient to defray the costs of administering this part and shall be based on the applicant's annual volume, but shall be not less than two hundred fifty dollars ($250) and shall be not more than one thousand dollars ($1,000) for contractors and two thousand five hundred dollars ($2,500) for all other registrants.

(b) At the time a certificate of registration is originally issued or renewed, the commissioner shall provide related and supplemental information regarding business administration and applicable labor laws. This related and supplemental information, as much as reasonably possible, shall be provided in the primary language of the garment manufacturer. The information shall include all subject matter on which persons seeking registration are examined pursuant to subdivision (c), and shall be available to persons seeking registration prior to taking this examination.

(c) Effective January 1, 1991, persons seeking registration under this section for the first time, and persons seeking to renew their registration pursuant to subdivision (f), shall comply with all of the following requirements:

(1) Demonstrate, by an oral or written examination, or both, knowledge of the pertinent laws and administrative regulations concerning garment manufacturing as the commissioner deems necessary for the safety and protection of garment workers.

(2) Demonstrate, by an oral or written examination, or both, knowledge of state laws and regulations relating to occupational safety and health which shall include, but not be limited to, the following:

(A) Section 3203 of Title 8 of the California Code of Regulations (Injury Prevention Program).

(B) Section 3220 of Title 8 of the California Code of Regulations (Emergency Action Plan).

(C) Section 3221 of Title 8 of the California Code of Regulations (Fire Prevention Plan).

(D) Section 6151 of Title 8 of the California Code of Regulations which provides for the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees.

(3) Sign a statement which provides that he or she shall do all of the following:

(A) Comply with those regulations specified in paragraph (2) which establish minimum standards for securing safety in all places of employment.

(B) Ensure that all employees are made aware of the existence of these regulations and any other applicable laws and are instructed in how to implement the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in the workplace.

(C) Ensure that all employees are instructed in the use of portable fire extinguishers.

(D) Post the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in a prominent location in the workplace.

(d) The Division of Occupational Safety and Health shall assist the Division of Labor Standards Enforcement in developing the examination which shall include, but not be limited to, the state's occupational safety and health laws specified in paragraph (2) of subdivision (c).

(e) The commissioner shall charge a fee to persons taking the examinations required by subdivision (c) which is sufficient to pay for costs incurred in administering the examinations.

(f) A person seeking renewal of registration shall be required to take both of the examinations, and sign the statement, specified in subdivision (c). However, once a renewal of registration has been granted based on these examinations, subsequent examinations shall only be required at the discretion of the commissioner if, in the preceding year, the registrant has been found to be in violation of subdivision (a) or any of the sections enumerated in that subdivision.

(g) Proof of registration shall be by an official Division of Labor Standards Enforcement registration form. Every person, as set forth in Section 2671, shall post the registration form where it may be read by employees during the workday.

(h) At least 90 days prior to the expiration of each registrant's registration, the commissioner shall mail a renewal notice to the last known address of the registrant. The notice shall include all necessary application forms and complete instructions for registration renewal. However, omission of the commissioner to provide notice in accordance with this subdivision shall not excuse a registrant from making timely application for renewal of registration, shall not be a defense in any action or proceeding involving failure to renew

registration, and shall not subject the commissioner to any legal liability under this section.

SEC. 4. Section 2675.5 of the Labor Code is amended to read:

2675.5. (a) The commissioner shall deposit seventy-five dollars ($75) of each registrant's annual registration fee, required pursuant to paragraph (5) of subdivision (a) of Section 2675, into one separate account. Funds from the separate account shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and benefits by any garment manufacturer, jobber, contractor, or subcontractor after exhausting a bond, if any, to ensure the payment of wages and benefits. Any disbursed funds subsequently recovered by the commissioner shall be returned to the separate account.

(b) The remainder of each registrant's annual registration fee not deposited into the special account pursuant to subdivision (a) shall be applied to costs incurred by the commissioner in administering the provisions of Section 2675 and this section.

SEC. 5. Section 2677 of the Labor Code is amended to read:

2677. (a) Any person engaged in the business of garment manufacturing who contracts with any other person similarly engaged who has not registered with the commissioner or does not have a valid bond on file with the commissioner, as required by Section 2675, shall be deemed an employer, and shall be jointly liable with such other person for any violation of Section 2675 and the sections enumerated in that section.

(b) Any employee of a person or persons engaged in garment manufacturing who are not registered as required by this part may bring a civil action against any person deemed to be an employer pursuant to subdivision (a) to recover any wages, damages, or penalties to which the employee may be entitled because of a violation by the unregistered person or persons of any provision specified in subdivision (a) of Section 2675, or may file a claim with the Labor Commissioner pursuant to Section 2673.1. In any civil action brought pursuant to this subdivision, the court shall grant a prevailing plaintiff's reasonable attorney's fees and costs.

SEC. 6. Section 2680 of the Labor Code is amended to read:

2680. (a) Any garment or wearing apparel, assembled or partially assembled by or on behalf of any person who has not complied with the registration requirements of this part, may be confiscated by the Division of Labor Standards Enforcement. Garments and wearing apparel confiscated pursuant to this section shall be placed in the custody of the division, which shall be charged with the responsibility of destroying or disposing of them pursuant to regulations adopted under Section 2672, provided that the goods shall not enter the mainstream of commerce and shall not be offered for sale. The division shall, by registered mail and telephone, give notice of the removal and the location where the confiscated goods are held in custody to the known manufacturer and contractor.

(b) If the person from whom garments or wearing apparel are confiscated pursuant to subdivision (a) was providing the confiscated garments or wearing apparel as a contractor and has previously, within the immediately preceding five-year period, had garments or wearing apparel confiscated pursuant to subdivision (a), the Labor Commissioner may, in addition to the remedies set forth in subdivision (a), confiscate the means of production, including all manufacturing equipment and the property where the current unregistered garment manufacturing operations have taken place. This subdivision does not apply where nonregistration of the contractor was due to delayed renewal of registration.

(c) The proceeds from the sale of any equipment or property under subdivision (b) shall be deposited into a single account in the General Fund, to be known as the Back Wages and Taxes Account. At the Labor Commissioner's discretion, and upon appropriation by the Legislature, funds from that account may be disbursed to pay back wages owed to garment workers, including, but not limited to, workers of the unregistered contractor whose violation caused the confiscation, and for the payment of taxes.

SEC. 7. Section 2684 is added to the Labor Code, to read:

2684. (a) The Legislature finds and declares that persons who are primarily engaged in sewing or assembly of garments for other persons engaged in garment manufacturing frequently close down their sewing shops to avoid paying their employees' wages and subsequently reopen under the conditions described in subdivision (b), and are more likely to do so than are other types of persons engaged in garment manufacturing.

(b) A successor to any employer that is primarily engaged in sewing or assembly of garments for other persons engaged in the business of garment manufacturing, as defined by subdivision (b) of Section 2671, that owes wages to the predecessor's former employee or employees is liable for those wages if the successor meets any of the following criteria:

(1) Uses substantially the same facilities or work force to produce substantially the same products for substantially the same type of customers as the predecessor employer.

(2) Shares in the ownership, management, control of labor relations, or interrelations of business operations with the predecessor employer.

(3) Has in its employ in a managerial capacity any person who directly or indirectly controlled the wages, hours, or working conditions of the affected employees of the predecessor employer.

(4) Is an immediate family member of any owner, partner, officer, or director of the predecessor employer or of any person who had a financial interest in the predecessor employer.

This section does not impose liability upon a successor for the guarantee of unpaid minimum wages and overtime compensation set forth in subdivision (a) or (b) of Section 2673.1.

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.

CHAPTER 555

An act to amend Sections 20391, 20392, 20393, 20395, 20397, 20398, 20405.1, 20405.3, 20407, 20409, 20677, 20683, 20687, 20822, 21070, 21071, 21072, 21073, 21073.5, 21077, 21130, 21337, 21353, 21353.5, 21362, 21363, 21363.5, 21369, 21372, 21373, 21374, 21403, 21407, 21572, 21573, and 21581 of, and to add Sections 20035.5, 21070.5, 21070.6, 21073.1, 21073.7, 21251.13, 21328, 21354.1, 21362.2, 21363.1, and 21369.1 to, to repeal Sections 21363.6 and 21573.5 of, and to add and repeal Section 21574.7 of, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 20035.5 is added to the Government Code, to read:

20035.5. Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a school member who retires or dies on or after January 1, 2000, and with respect to benefits based on service with a school employer, means the highest annual compensation that was earnable by the school member during the consecutive 12-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from service if earlier or during any other period of 12 consecutive months during his or her membership in this system that the member designates on the application for retirement.

SEC. 2. Section 20391 of the Government Code is amended to read:

20391. "State peace officer/firefighter member" means:

(a) All persons in the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Department of Toxic Substances Control, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the Department of Mental

Health, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcoholic Beverage Control (Class Code 7553), Investigator I, Alcoholic Beverage Control, Range A and B (Class Code 7554), and Investigator II, Alcoholic Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(e) A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of the election with the board within 90 days after notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

SEC. 2.5. Section 20391 of the Government Code is amended to read:

20391. "State peace officer/firefighter member" means:

(a) All persons in the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Department of Toxic Substances Control, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the Department of Mental Health, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcoholic Beverage Control (Class Code 7553), Investigator I, Alcoholic Beverage Control, Range A and B (Class Code 7554), and

Investigator II, Alcoholic Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(e) All persons in the Franchise Tax Board who have been designated as peace officers in subdivision (s) of Section 830.3 of the Penal Code.

(f) A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

SEC. 3. Section 20392 of the Government Code is amended to read:

20392. "State peace officer/firefighter member" also includes officers and employees with the following class titles of:

Class Code	Classification
6875	Air Operations Officer I
1056	Air Operations Officer II
1053	Air Operations Officer III
6877	Air Operations Officer I (Maintenance)
6882	Air Operations Officer II (Maintenance)
1050	Air Operations Officer III (Maintenance)
8997	Arson and Bomb Investigator
9694	Board Coordinating Parole Agent, Youthful Offender Parole Board
9904	Correctional Counselor I
9903	Correctional Counselor II
9662	Correctional Officer
9911	Case Work Specialist, Youth Authority
9013	Deputy State Fire Marshal III (Specialist)
9086	Deputy State Fire Marshal

9010	Deputy State Fire Marshal III (Supervisor)
1077	Fire Apparatus Engineer
1095	Fire Captain
1072	Fire Control Aid
8979	Firefighter
1083	Firefighter I
1082	Firefighter II
9001	Firefighter (Correctional Institution)
8990	Firefighter/Security Officer
1047	Fire Prevention Officer I
1049	Fire Prevention Officer II
9090	Fire Service Training Specialist III
8418	Fish and Game Patrol, Lieutenant
8421	Fish and Game Warden, Department of Fish and Game
9039	Senior Food and Drug Investigator
9028	Food and Drug Program Specialist
9007	Food Technology Specialist
1060	Forestry Aid
1046	Forestry Pilot (Helicopter)
9579	Group Supervisor
9578	Group Supervisor Trainee
6387	Heavy Fire Equipment Operator
1937	Hospital Peace Officer I
8416	Lieutenant Fish and Game Patrol Boat
0992	Lifeguard
8217	Medical Technical Assistant, Correctional Facility
1992	Museum Security Officer I
9701	Parole Agent I, Youth Authority
9765	Parole Agent I, Adult Parole
9696	Parole Agent II, Youth Authority (Specialist)
9763	Parole Agent II, Adult Parole (Supervisor)
9762	Patrol Agent II, Adult Parole (Specialist)
8215	Senior Medical Technical Assistant
8359	Sergeant, California State Police
8980	State Fire Marshal Trainee
9723	State Forest Ranger I (Nonsupervisory)
9724	State Forest Ranger II (Nonsupervisory)
0983	State Park Ranger I
8464	State Police Officer
8358	State Security Officer

8989	Captain Firefighter/Security Officer
8410	Warden–Pilot Department of Fish and Game
9581	Youth Counselor

A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of the election with the board within 90 days after notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

SEC. 4. Section 20393 of the Government Code is amended to read:

20393. "State peace officer/firefighter member" also means:

(a) All persons in the office of the Secretary of State, office of the Controller, and the Public Employees' Retirement System employed on a full-time permanent basis with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons employed on a full-time permanent basis with the class title of Corporations Investigator (Class Code 8570) or Associate Corporations Investigator (Class Code 8571) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons employed on a full-time permanent basis with the class title of Sergeant, State Fair Police (Class Code 1946), State Fair Police Officer (Class Code 1945), Lottery Agent (Class Code 8602), District Representative I and II, Division of Codes and Standards (Class Codes 8960 and 8958), Deputy Registrar of Contractors I and II (Class Codes 8793 and 8792), Polygraph Examiner, California Department of the Youth Authority (Class Code 8542), Community Services Consultant I (Class Code 9717), or Parole Service Associate (Class Code 9776) who have been designated as peace officers as defined in Sections 830.2, 830.3, and 830.5 of the Penal Code.

(d) All persons employed on a full-time permanent basis with the class title of Forester I (Class Code 1054) and Forester II (Class Code 9721).

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date that this section is applicable to the member by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or

21354.1, as applicable, only for service also included in the federal system.

SEC. 5. Section 20395 of the Government Code is amended to read:

20395. "State peace officer/firefighter member" means all members who are full-time permanent employees represented in Corrections Unit No. 6, Protective Services and Public Safety Unit No. 7, and Firefighters Unit No. 8 and are employed in class titles that are designated as peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or are firefighters whose principal duties consist of active firefighting/fire suppression.

A member who is employed in a position that is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

Notwithstanding any other provision of law, security officers employed by the Department of Justice are not state peace officer/firefighter members, but are, for all purposes, state miscellaneous members.

SEC. 6. Section 20397 of the Government Code is amended to read:

20397. "State peace officer/firefighter member" also includes:

(1) The Sergeants-at-Arms of each house of the Legislature who have been designated as peace officers in subdivision (a) of Section 830.36 of the Penal Code, excluding the Chief Sergeant-at-Arms.

(2) Bailiffs and security coordinators of the judicial branch who have been designated as peace officers in subdivision (b) of Section 830.36 of the Penal Code.

A member who is reclassified from state miscellaneous to state peace officer/firefighter pursuant to this section, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit and the normal rate of contribution by filing a notice of the election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

SEC. 7. Section 20398 of the Government Code is amended to read:

20398. "State peace officer/firefighter member" also includes:

(a) State officers and employees designated as peace officers as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and 830.5 of the Penal Code, except a patrol member, or a firefighter whose principal

duties consist of active firefighting/fire suppression, who is either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, provided, that those officers and employees have responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20391, 20392, 20393, and 20395. The Department of Personnel Administration shall annually determine which classes meet the above conditions and are not classes specified in Sections 20391, 20392, 20393, and 20395, and report its findings to the Legislature and to this system, to be effective July 1 of each year.

(b) Members who are reclassified pursuant to this section may file an irrevocable election to remain subject to their prior retirement formula and the corresponding rate of contributions. The Director of Corrections may, upon appointment to that office on or after January 1, 1999, file an irrevocable election to be subject to the industrial formula and the corresponding rate of contributions. The elections must be filed within 90 days of notification by the board. Members who so elect shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for the service included in the federal system.

SEC. 8. Section 20405.1 of the Government Code is amended to read:

20405.1. Notwithstanding Section 20405, this section shall apply to state employees in State Bargaining Unit 16.

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Personnel Administration agrees to their inclusion. The effective date of safety membership shall be the date on which the department and the employees' exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(c) Notwithstanding Section 7550.5, the department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(d) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21076, 21353, or 21354.1, as applicable, only for service also included in the federal system.

SEC. 9. Section 20405.3 of the Government Code is amended to read:

20405.3. (a) Notwithstanding Section 20405, this section shall apply only to state employees in State Bargaining Unit 19.

(b) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.23, provided the Department of Personnel Administration agrees to their inclusion. The effective date of safety membership shall be the date on which the department and the employees' exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5.

(c) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(d) Notwithstanding Section 7550.5, the department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(e) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21076, 21353, or 21354.1, as applicable, only for service also included in the federal system.

SEC. 10. Section 20407 of the Government Code is amended to read:

20407. "State safety member" also includes officers and employees with the State Department of Mental Health and the Department of Corrections in the following classifications:

Classification Code	Classification Title
8254	Prelicensed Psychiatric Technician (forensic facility)
8253	Psychiatric Technician (forensic facility)
8252	Senior Psychiatric Technician (forensic facility)
8212	Nurse Practitioner (forensic facility)
8160	Health Services Specialist (forensic facility)

7601 Program Director-Medical
(forensic facility)

"State safety member" also includes an officer or employee of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, the State Department of Mental Health Psychiatric Program of California Medical Facility at Vacaville, or any other state hospital that is deemed a forensic facility, who either is excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Personnel Administration shall determine which classes meet the above conditions and report its findings to the Public Employees' Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

SEC. 11. Section 20409 of the Government Code is amended to read:

20409. (a) "State safety member" shall also include officers and employees of the following departments with the following class titles:

Class Code	Classification	Department
8330	Aircraft Pilot, Department of Justice	Justice
8997	Arson and Bomb Investigator	Fire Marshal
9027	Assistant Chief, Food and Drug Section	Health Services
8609	Chief, Bureau of Fraudulent Claims, Department of Insurance	Insurance

8610	Chief, Division of Investigations, Department of Consumer Affairs	Consumer Affairs
8988	Chief Firefighter/Security Guard	Veterans Affairs
9030	Chief, Food and Drug Section	Health Services
8613	Chief, Investigation Bureau, Department of Health Services	Health Services
1986	Chief Museum Security Officer	Museum of Science and Industry
8673	Deputy Division Chief, Alcoholic Beverage Control	Alcoholic Beverage Control
8677	District Administrator, Alcoholic Beverage Control	Alcoholic Beverage Control
8990	Firefighter/Security Guard	Veterans Affairs
8966	Division Chief, California State Fire Marshal	Fire Marshal
9090	Fire Service Training Specialist III	Fire Marshal
9091	Fire Service Training Supervisor	Fire Marshal
9028	Food and Drug Program Coordinator	Health Services
9029	Food and Drug Regional Administrator	Health Services
9042	Food and Drug Specialist II	Health Services
9039	Food and Drug Specialist III	Health Services
9036	Food and Drug Specialist IV	Health Services

9043	Food and Drug Trainee	Health Services
9007	Food Technology Specialist	Health Services
1937	Hospital Peace Officer I	Developmental Services, Mental Health, Consumer Affairs
1936	Hospital Peace Officer II	Developmental Services, Mental Health, Consumer Affairs
1935	Hospital Peace Officer III	Developmental Services, Mental Health
1992	Museum Security Officer	Museum of Science and Industry
0891	Park Safety and Enforcement Supervisor	Parks and Recreation
0890	Park Safety and Enforcement Specialist	Parks and Recreation
8358	State Security Officer	General Services
8999	Chief Arson and Bomb Investigator	Fire Marshal
8989	Supervising Firefighter/Security Guard	Veterans Affairs
1988	Supervising Museum Security Officer	Museum of Science and Industry
8678	Supervising Special Investigator, Alcoholic Beverage Control	Alcoholic Beverage Control

(b) Any person employed in the classifications described in subdivision (a) in the department indicated may elect, within 90 days of September 27, 1982, to remain subject to the miscellaneous service retirement benefit by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

(c) This section shall not become applicable to any member included in a classification until a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" or "fireman," or both, is issued by the

federal agency for purposes of Section 418(d)(5)(A) of Title 42 of the United States Code.

SEC. 12. Section 20677 of the Government Code is amended to read:

20677. (a) (1) The normal rate of contribution for a state miscellaneous member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered on and after July 1, 1976. The normal rate of contribution for a school member, or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after June 21, 1971.

(2) The normal rate of contribution for a state miscellaneous or industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member's compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21353, 21353.5, 21354, or 21354.1 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) (1) The normal rate of contribution for a state miscellaneous member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or industrial member, who has elected to be subject to Section 21353.5 and whose service has been included in the federal system, shall be 5 percent of compensation, subject to the reduction specified in paragraph (3) of subdivision (a).

(c) The normal rate of contribution for a state miscellaneous or state industrial member who is subject to Section 21076 or Section 21077 shall be 0 percent.

(d) A member who elected to become subject to Section 21353 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 21070 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 21073.

(e) A member who elects to become subject to Section 21353 or 21354.1, as applicable, shall contribute at the rate specified in paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b), as determined by the member's status with the federal system, and the rate shall be applied from the first of the month following the date

of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 21073 or 21073.1, as applicable.

SEC. 12.5. Section 20677 of the Government Code is amended to read:

20677. (a) (1) The normal rate of contribution for a state miscellaneous member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid that member for service rendered on and after July 1, 1976. The normal rate of contribution for a school member, or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after June 21, 1971.

(2) The normal rate of contribution for a state miscellaneous or industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member's compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21353, 21353.5, 21354, or 21354.1 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) (1) The normal rate of contribution for a state miscellaneous member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or industrial member, who has elected to be subject to Section 21353.5 and whose service has been included in the federal system, shall be 5 percent of compensation, subject to the reduction specified in paragraph (3) of subdivision (a).

(c) The normal rate of contribution for a state miscellaneous or state industrial member who is subject to Section 21076 or Section 21077 shall be 0 percent.

(d) A member who elected to become subject to Section 21353 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 21070 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 21073.

(e) A member who elects to become subject to Section 21353 or 21354.1, as applicable, shall contribute at the rate specified in paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b),

as determined by the member's status with the federal system, and the rate shall be applied from the first of the month following the date of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 21073 or 21073.1, as applicable.

(f) In any fiscal year when the normal rate of contribution for a school member, as established under paragraph (1) of subdivision (a), is greater than the rate of contribution required of the school member pursuant to Section 20817, the amount equivalent to the difference in the rates shall be directed to the Supplemental Contributions Program as set forth in Part 8 (commencing with Section 22970). The provisions of this subdivision shall not take effect until the date specified by the board pursuant to Section 20817.

SEC. 13. Section 20683 of the Government Code is amended to read:

20683. (a) For each state member subject to Section 21369 or 21369.1, the normal rate of contribution shall be 6 percent of compensation in excess of three hundred seventeen dollars ($317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars ($513) for one whose service is included in the federal system. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) For each local safety member subject to Section 21369, the normal rate of contribution shall be 7 percent of compensation.

(c) The normal rate of contribution as established under this section for a local member whose service is included in the federal system and whose retirement allowance is reduced because of that inclusion shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service rendered after the date of execution of the modification of the federal-state agreement including those services in the federal system and prior to termination of his or her coverage under the federal system.

(d) The operative date of this section with respect to a local safety member shall be the date upon which he or she becomes subject to Section 21369.

SEC. 14. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members and for local safety members subject to Section 21363 or 21363.1 shall be 8 percent of the compensation in

excess of two hundred thirty-eight dollars ($238) per month paid those members.

(b) Notwithstanding subdivision (a), the normal rate of contribution for local safety members of the City of Sacramento subject to Section 21363 shall be 9 percent of compensation paid those members.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 15. Section 20822 of the Government Code is amended to read:

20822. From the General Fund in the State Treasury there is appropriated annually, 12 months in arrears, on July 1 of each fiscal year, beginning July 1, 1994, to the retirement fund the state's contribution for:

(a) All state miscellaneous members and all other categories of members whose compensation is paid from the General Fund.

(b) All university members whose compensation is paid from funds of, or funds appropriated to, the university.

(c) All state miscellaneous members who are employed by the State Department of Education or the Department of Rehabilitation and whose compensation is paid from the Vocational Education Federal Fund, the Vocational Rehabilitation Federal Fund, or any other fund received, in whole or in part, as a donation to the state under restrictions preventing its use for state contributions to the retirement system.

(d) All state miscellaneous members and all other categories of members whose compensation is paid from the Senate Operating Fund or the Assembly Operating Fund or the Operating Funds of the Assembly and Senate.

SEC. 16. Section 21070 of the Government Code is amended to read:

21070. (a) Effective January 1, 1985, there shall be an alternative level of benefits available to the following state miscellaneous members: (1) members who are excluded from the definition of state employee in subdivision (c) of Section 3513; (2) members employed by the executive branch of government who are not members of the civil service; and (3) members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. Effective September 1, 1986, this section shall apply to members employed by the state as provided for in Article VI of the California Constitution. The board shall provide the affected members a one-month election period commencing on

August 1, 1986. This section does not apply to state miscellaneous members employed by the California State University or the University of California. This section shall not apply to any employee described by Section 20324 unless and until the employer, as defined in Section 20902, adopts a resolution approving that application.

(b) Effective September 1, 1986, there shall be an alternate level of benefits available to the following state industrial members: (1) members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section; (2) members who are excluded from the definition of state employees in subdivision (c) of Section 3513; and (3) members employed by the executive branch of government who are not members of the civil service. The board shall provide the affected members a one-month election period commencing on August 1, 1986.

(c) Members eligible to participate in the alternative level of benefits, referred to in this part as the Second Tier, may make an irrevocable election during the period from November 1, 1988, through October 31, 1989, to: (1) become subject to the Second Tier benefits provided for in Section 21076 for all past state miscellaneous and state industrial service and all future state miscellaneous and state industrial service not excluded by this section; (2) become subject to the Second Tier benefits provided for in Section 21077 for state miscellaneous and state industrial service not excluded by this section rendered on and after the effective date of the election to be subject to the Second Tier. Any election by a member to be subject to Section 21076 or 21077 shall also be signed by the spouse of the member and both signatures shall be notarized; (3) become subject to the First Tier retirement formula prescribed by Section 21353 for state miscellaneous and state industrial service rendered on or after the effective date of the election, provided that the member had previously elected coverage pursuant to Section 21076 or 21077 and makes the contributions specified in Section 20677; or (4) become subject to the First Tier retirement formula prescribed by Section 21353 for all past and future state miscellaneous and state industrial service, provided that the member had previously elected coverage pursuant to Section 21076 or 21077 and the member makes the contributions specified in Sections 20677 and 21073. The right of eligible members to elect coverage under the retirement formula of their choice shall apply solely during the above-prescribed one-year period, subject to conditions to be established and communicated by the board.

Thereafter, and until January 1, 2000, the board shall provide a 30-day period every five years for eligible members to make an irrevocable election to be subject to the Second Tier benefits provided for in Section 21076 or 21077. Eligible members who previously elected Section 21077 may make an irrevocable election

to become subject to Section 21076 for all past state miscellaneous and state industrial service during this election period. The first election period shall be held five years from the ending date of the one-year election period specified in this subdivision.

The effective date of any election filed with the board shall be the first of the month following the date the election is received in the system, provided the election meets the conditions set by the board. Any election filed with the board under this subdivision shall also be signed by the spouse of the member and both signatures shall be notarized.

(d) Persons who become state miscellaneous or state industrial members described in this section or who become such members under Article 3 (commencing with Section 20320) of Chapter 3 of this part on or after the Second Tier effective date applicable to the member, shall be subject to Section 21077 unless an election is filed with the board to be subject to Section 21353 and the member makes the contributions specified in Section 20677. The appointing authority shall provide the member with the election form and the member shall exercise the election within one year of becoming a member. The effective date of the election shall be the date on which the member became a state miscellaneous or state industrial member.

(e) A state miscellaneous or state industrial member who, on or after the effective date of an election to be subject to Section 21076 or 21077, ceases to be a member pursuant to Section 20340 or 21075 shall, upon again becoming a state miscellaneous or state industrial member, be subject to Section 21076 or 21077 in accordance with his or her previous irrevocable election. This subdivision does not apply to persons who return to membership as employees of the California State University.

Except as otherwise provided in this part, a state miscellaneous or state industrial member subject to Section 21076 or 21077 is subject to all other provisions applicable to state miscellaneous members except those provisions that provide for the payment of an annuity based on contributions. Notwithstanding any other provision of this part, member contributions are not required for any service credit that is subject to Section 21076.

(f) Notwithstanding any other provision in subdivisions (a) to (e), inclusive, this section does not apply to a state miscellaneous or state industrial member who, on or after January 1, 2000, (1) was first employed by the state, (2) returned to employment with the state from a break in service of more than 90 days, or (3) returned to employment with the state after ceasing to be a member pursuant to Section 20340 or 21075.

(g) The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 17. Section 21070.5 is added to the Government Code, to read:

21070.5. (a) Notwithstanding any other provision of this article, a person who, on or after January 1, 2000, becomes a state miscellaneous or state industrial member of the system because the person: (1) is first employed by the state, (2) returns to employment with the state from a break in service of more than 90 days, or (3) returns to employment with the state after ceasing to be a member pursuant to Section 20340 or 21075, shall be subject to the benefits provided by Section 21354.1, unless the person elects within 180 days of membership as a state miscellaneous or state industrial member to be subject to the Second Tier benefits provided for in Section 21076. This section shall only apply to state miscellaneous and state industrial members who are: (1) excluded from the definition of state employee in subdivision (c) of Section 3513; (2) employed by the executive branch of government who are not members of the civil service; or (3) included in the definition of state employee in subdivision (c) of Section 3513.

(b) The effective date of the election shall be the first of the month following the date the election is received by the system and shall be applicable to state service rendered on and after that date. Any election filed with the board pursuant to this section shall also be signed by the spouse of the member.

(c) A member who makes an election authorized by this section shall not be precluded from making a subsequent election pursuant to Section 21073.7 to be subject to the benefits provided by Section 21354.1.

(d) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 18. Section 21070.6 is added to the Government Code, to read:

21070.6. (a) A member who is subject to Section 21076 or 21077 may be credited at no cost with all previous state miscellaneous or state industrial service eligible to be credited under Second Tier benefits. A member who is entitled to service credit under this section shall apply for and identify time periods for that service to the board.

(b) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 19. Section 21071 of the Government Code is amended to read:

21071. (a) Notwithstanding any other provision of this article, except as provided in subdivisions (b) and (c), persons who first become state miscellaneous or state industrial members of the system on or after July 1, 1991, and who are (1) excluded from the definition of state employee in subdivision (c) of Section 3513, (2) employed by the executive branch of government and are not members of the civil

service, or (3) included in the definition of state employee in subdivision (c) of Section 3513 shall become subject to Section 21076.

(b) Any person who was a member on or before June 30, 1991, eligible to elect membership on or before June 30, 1991, or who was employed in any position on or before June 30, 1991, that would lead to membership as a state member, as defined in Section 20370, and who thereafter enters employment subject to Section 21076 shall be granted the rights provided in subdivision (c) of Section 21070, unless the person had earlier made an irrevocable election to be subject to Section 21076 or 21077. The one-year period in which to make the election provided in subdivision (c) of Section 21070 for any member who became a state member prior to January 1, 1994, shall commence with the mailing of a notice by the system to the member, of his or her election right. The effective date of the election shall be the date on which the member became a state miscellaneous or state industrial member. The member shall be obligated to make the contributions specified in Section 20677.

(c) Effective on or after April 1, 1998 state miscellaneous or industrial members may elect to be subject to the service retirement formula prescribed in Section 21353.5, as an alternative to Second Tier membership under Section 21076. The election shall be provided to eligible members by the appointing authority, and, to be effective, an election must be filed with the board. Eligible members who must be in the employment of the state are defined as members in state bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to Section 21353.5. The effective date of a member's election shall be the first day of the month following the date the election is filed with the system.

(d) This section shall not apply to state miscellaneous members employed by the California State University or employees described in Section 20324.

(e) This section shall become inoperative on January 1, 2000.

(f) The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 20. Section 21072 of the Government Code is amended to read:

21072. (a) A member who elects to be subject to Section 21076 shall be credited at no cost with all creditable previous state miscellaneous or state industrial service after the member is credited with one year of service under Section 21076. A member who was subject to Section 21076, who terminates membership, and who subsequently returns to state service shall be granted, at no cost, all of the service credit earned as a result of the election, after the member is credited with one year of service following return to state service. The one-year requirement shall be waived for a member

who meets the service credit requirements for disability retirement specified in Section 21150 with the past creditable service.

(b) A member who elects to be subject to Section 21077, who terminates membership and who subsequently returns to service shall be credited, at no cost, with the service earned as a result of the election, after the member is credited with one year of service following return to state service. The one- year requirement shall be waived for a member who meets the service credit requirements for disability retirement specified in Section 21150 with the past creditable service.

(c) A member who is entitled to service credit under this section shall apply for and identify time periods for that service to the board.

(d) This section shall become inoperative on January 1, 2000.

(e) The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 21. Section 21073 of the Government Code is amended to read:

21073. (a) A member who elects prior to January 1, 2000, to receive service credit under Section 21353, as authorized by subdivision (c) of Section 21070, for time during which he or she was subject to Section 21077, shall contribute in a lump sum or by installments, over that period and subject to minimum payments as may be prescribed by regulations of the board, an amount equal to the contributions he or she would have made had he or she not been subject to Section 21077, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions.

(b) A member who elects prior to January 1, 2000, to receive service credit under Section 21353, as authorized by subdivision (c) of Section 21070, for time during which he or she received service credit under Section 21076, shall deposit in the retirement fund, subject to the regulations of the board, an amount equal to (1) any accumulated contributions that he or she withdrew pursuant to Section 20737, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions, and (2) an amount equal to the contributions he or she would have made had he or she not been subject to Section 21076, plus an amount equal to the interest, to the date of completion of payments, that would have been credited to those contributions.

Upon electing, prior to January 1, 2000, to be subject to Section 21353, a member shall return to coverage under that formula without credit for any previous creditable state miscellaneous or industrial service credited at no cost pursuant to Section 21072, unless the member elects to redeposit or to purchase the service as otherwise required in this part, or the member has elected to be subject to Section 21353 solely for service rendered on or after the effective date

of the election, as permitted during the one-year period specified in subdivision (c) of Section 21070.

(c) The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 22. Section 21073.1 is added to the Government Code, to read:

21073.1. (a) Effective January 1, 2000, a member who elects to receive service credit under Section 21354.1, as authorized by Section 21073.7, for time during which the member received service credit subject to Section 21076 or 21077, shall deposit an amount equal to any accumulated contributions the member withdrew pursuant to Section 20737, plus the interest that would have been credited to the member's account had the contributions not been withdrawn, and any contributions the member would have made, plus an amount equal to the interest that would have been credited to those contributions, had the member not been subject to Section 21076 or 21077. This deposit shall be made in a lump sum or by installments, with interest through the completion of payments, over that period and subject to minimum payment amounts as may be prescribed by regulations of the board. Alternatively, this deposit requirement may be satisfied by an actuarial equivalent reductions in the member's retirement allowance.

(b) The board, in addition to its general rulemaking authority under Section 20121, may adopt regulations that implement this section. Those regulations shall be exempt from review by the Office of Administrative Law. However, the board shall transmit those regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 23. Section 21073.5 of the Government Code is amended to read:

21073.5. A state Second Tier member, who meets the eligibility definition prescribed in subdivision (c) of Section 21071 may elect to be subject to Section 21353.5 while he or she is in the employment of the state. Upon becoming subject to Section 21353.5, the active member may elect, prior to January 1, 2000, to have his or her past Second Tier service credited under Section 21353.5. A member who elects to receive credit for past service shall pay all reasonable administrative costs and the amount that will be equivalent to the difference between the actuarial present value of the Second Tier service that had accrued to the member's credit and the actuarial present value for the same service had it been credited under Section 21353.5, including interest if deemed necessary, in accordance with the method to be established by the board. The amount shall be

contributed in a lump sum or by installments over a period and subject to minimum payments as may be prescribed by regulations of the board. Payments for administrative costs shall be credited to the current appropriation for support of the board and available for expenditures by the board to fund positions deemed necessary by the board to implement this section.

The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 24. Section 21073.7 is added to the Government Code, to read:

21073.7. (a) A member subject to the Second Tier benefits provided in Section 21076 or 21077 who is employed by the state on or after January 1, 2000, may make an irrevocable election, to be filed with the board, to be subject to the First Tier benefits provided in Section 21354.1 and to make the contributions specified in Section 20677. An election shall be effective the first of the month following the date the election is received by the system and shall be applicable to state service rendered on and after that date. An election to be subject to Section 21354.1 may be made at any time prior to retirement and shall also be signed by the spouse of the member.

(b) A member who is employed by the state on or after January 1, 2000, with past service credited under the Second Tier may make an irrevocable election, at any time prior to retirement, to have his or her past Second Tier service credited under Section 21354.1 by making contributions specified in Section 21073.1. This subdivision shall not apply to a Second Tier member eligible to make the election provided in subdivision (a) until after the effective date of that election.

(c) A member subject to modified First Tier benefits pursuant to Section 21353.5 shall become subject to Section 21353 or 21354.1, as applicable, and make contributions as specified in Section 20677. The member's past service and contributions credited as modified First Tier under Section 21353.5 shall be converted to First Tier service and contributions and shall be subject to Section 21353 or 21354.1, as applicable. Contributions previously credited as modified First Tier and withdrawn by the member may be redeposited under the conditions specified in Section 20750, with the service credit and contributions subject to Section 21353 or 21354.1, as applicable.

(d) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

SEC. 25. Section 21077 of the Government Code is amended to read:

21077. The service retirement allowance for a state miscellaneous or state industrial member who elects to be subject to this section shall be: the sum of the allowance for service rendered under the Second Tier retirement formula, computed pursuant to Section 21076, added to the allowance for service rendered as a state

miscellaneous or state industrial member covered under the First Tier formula, computed pursuant to Section 21353 or 21354.1, as applicable.

SEC. 26. Section 21130 of the Government Code is amended to read:

21130. Every patrol member subject to Section 21362 or 21362.2, as applicable, shall be retired on the first day of the calendar month succeeding that in which he or she attains the age of 60 years.

SEC. 27. Section 21251.13 is added to the Government Code, to read:

21251.13. (a) Notwithstanding any other provision of law, Sections 21070.5, 21070.6, 21073.1, 21073.7, 21354.1, 21362.2, 21363.1, and 21369.1 and the amendments to Sections 21070, 21071, 21072, 21073, 21073.5, and 21353.5, enacted during the first year of the 1999–2000 Regular Session:

(1) Shall not become operative unless the board adopts a resolution that does both of the following: (A) employs, for the June 30, 1998, valuation, 95 percent of the market value of assets of the state employer as the actuarial value of the assets; and (B) amortizes the June 30, 1998, excess assets over a period of 20 years, beginning July 1, 1999.

(2) Shall not apply to a state employee, as defined in subdivision (c) of Section 3513, in a bargaining unit unless and until incorporated in a memorandum of understanding, pursuant to Section 3517.5, applicable to that bargaining unit.

(3) Shall not apply to excluded employees, as defined in Section 3527, unless the Department of Personnel Administration has approved the application of those provisions to those employees.

(b) Notwithstanding anything in a memorandum of understanding to the contrary, (1) the benefits provided under the provisions of those sections described in subdivision (a), as added or amended during the first year of the 1999–2000 Regular Session, shall not terminate upon the expiration or termination of the memorandum of understanding, and (2) the only conditions to the operation of the provisions of those sections described in subdivision (a), as added or amended during the first year of the 1999-2000 Regular Session, are contained in this section.

(c) Upon request by the state employer or other entity, or on its own volition, the board may change the amortization period, or take any other action the board deems necessary or appropriate, to mitigate the impact of unforeseen factors that may cause an increase in the employer contribution by the state. Nothing in this section shall be construed to limit the board's authority under Section 17 of Article 16 of the California Constitution.

SEC. 28. Section 21328 is added to the Government Code, to read:

21328. In addition to the increase in allowance authorized and granted pursuant to Section 21313, and notwithstanding the limitation on that increase imposed by this article and subdivision (b)

of Section 21337, effective January 1, 2000, the monthly allowance paid with respect to a state or school member who retired or died prior to January 1, 2000, other than an allowance provided by Article 3 (commencing with Section 21570) of Chapter 14, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period during which retirement or death occurred:	Percentage:
24 months ending Dec. 31, 1999	0.0%
12 months ending Dec. 31. 1997	1.0%
24 months ending Dec. 31, 1996	2.0%
60 months ending Dec. 31, 1994	3.0%
60 months ending Dec. 31, 1989	4.0%
120 months ending Dec. 31, 1984	5.0%
12 months ending Dec. 31, 1974 or earlier	6.0%

The percentage shall be applied to the allowance payable on January 1, 2000, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. Notwithstanding Section 21337 to the contrary, this increase shall not be included in determining the initial monthly allowance upon which a supplemental benefit is payable pursuant to Section 21337.

SEC. 29. Section 21337 of the Government Code is amended to read:

21337. (a) On an annual basis, the board shall transfer to a supplemental account, to fund the purchasing power protection allowance, the lesser of either of the following:

(1) The amount necessary to increase all monthly allowances paid by this system to 75 percent of the purchasing power of the initial monthly allowances.

(2) Up to 1.1 percent of the net earnings on member contributions, as determined by Section 20178.

(b) The funds transferred to the supplemental account shall be utilized to increase all monthly allowances paid by this system up to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances, notwithstanding the benefit provided by Section 21328, that were received by every retired person or survivor or beneficiary of a state, school, or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the account after the payment of benefits under this section shall be transferred to the employer accounts.

SEC. 29.5. Section 21337 of the Government Code is amended to read:

21337. (a) Annually all monthly allowances paid by the system to retirees of contracting agencies, and to the survivors and beneficiaries of those retirees, shall be increased to 80 percent of the purchasing power of the initial monthly allowances as determined by the board.

(b) Annually all monthly allowances paid by the system to retirees of the state, university, and school employers, and to the survivors and beneficiaries of those retirees, shall be increased to 75 percent of the purchasing power of the initial monthly allowances, notwithstanding the benefit provided by Section 21328, as determined by the board.

(c) The cost of the payment of these benefits to retirees and beneficiaries of each employer shall be paid from the assets of that employer in the system.

SEC. 30. Section 21353 of the Government Code is amended to read:

21353. (a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university member, or service covered under the First Tier retirement formula, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
50 1/4	.554
50 1/2	.562
50 3/4	.570
51	.578
51 1/4	.586
51 1/2	.595
51 3/4	.603
52	.612
52 1/4	.621

52 1/2	.630
52 3/4	.639
53	.648
53 1/4	.658
53 1/2	.668
53 3/4	.678
54	.688
54 1/4	.698
54 1/2	.709
54 3/4	.719
55	.730
55 1/4	.741
55 1/2	.753
55 3/4	.764
56	.776
56 1/4	.788
56 1/2	.800
56 3/4	.813
57	.825
57 1/4	.839
57 1/2	.852
57 3/4	.865
58	.879
58 1/4	.893
58 1/2	.908
58 3/4	.923
59	.937
59 1/4	.953
59 1/2	.969
59 3/4	.985
60	1.000
60 1/4	1.017
60 1/2	1.034
60 3/4	1.050
61	1.067
61 1/4	1.084
61 1/2	1.101
61 3/4	1.119
62	1.136
62 1/4	1.154

$62\frac{1}{2}$	1.173
$62\frac{3}{4}$	1.191
63 and over	1.209

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) With the exception of state miscellaneous members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state miscellaneous and state industrial members who are not employed by the state on or after January 1, 2000.

SEC. 31. Section 21353.5 of the Government Code is amended to read:

21353.5. (a) The combined current and prior service pensions for a state miscellaneous or state industrial member who has elected to be subject to the service retirement formula prescribed in this section, as provided by Sections 21071 and 21073.5, is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service, except service in a category of membership other than that credited under this section, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50	.546
$50\frac{1}{4}$	.554
$50\frac{1}{2}$	.562
$50\frac{3}{4}$	.570

51	.578
51 1/4	.586
51 1/2	.595
51 3/4	.603
52	.612
52 1/4	.621
52 1/2	.630
52 3/4	.639
53	.648
53 1/4	.658
53 1/2	.668
53 3/4	.678
54	.688
54 1/4	.698
54 1/2	.709
54 3/4	.719
55	.730
55 1/4	.741
55 1/2	.753
55 3/4	.764
56	.776
56 1/4	.788
56 1/2	.800
56 3/4	.813
57	.825
57 1/4	.839
57 1/2	.852
57 3/4	.865
58	.879
58 1/4	.893
58 1/2	.908
58 3/4	.923
59	.937
59 1/4	.953
59 1/2	.969
59 3/4	.985
60 and over	1.000

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a

member any of whose service has been included in the federal system.

(c) The retirement allowance provided by this section, which shall be effective for members who retire on and after April 1, 1998, is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) This section shall become inoperative on January 1, 2000.

(e) The amendments to this section enacted during the first year of the 1999–2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 32. Section 21354.1 is added to the Government Code, to read:

21354.1. (a) The combined current and prior service pensions for school members, state miscellaneous or state industrial members, or university members who are subject to the provisions of this section is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service, except service in a category of membership other than that of a school member, state miscellaneous or state industrial member, or university member or service covered under this retirement formula with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
50	0.550
50 1/4	0.573
50 1/2	0.595
50 3/4	0.618
51	0.640
51 1/4	0.663
51 1/2	0.685
51 3/4	0.708
52	0.730
52 1/4	0.753
52 1/2	0.775
52 3/4	0.798
53	0.820

53 1/4	0.843
53 1/2	0.865
53 3/4	0.888
54	0.910
54 1/4	0.933
54 1/2	0.955
54 3/4	0.978
55	1.000
55 1/4	1.008
55 1/2	1.016
55 3/4	1.024
56	1.032
56 1/4	1.040
56 1/2	1.048
56 3/4	1.055
57	1.063
57 1/4	1.071
57 1/2	1.079
57 3/4	1.086
58	1.094
58 1/4	1.102
58 1/2	1.110
58 3/4	1.118
59	1.125
59 1/4	1.134
59 1/2	1.141
59 3/4	1.149
60	1.157
60 1/4	1.165
60 1/2	1.173
60 3/4	1.180
61	1.188
61 1/4	1.196
61 1/2	1.203
61 3/4	1.211
62	1.219
62 1/4	1.227
62 1/2	1.235
62 3/4	1.243
63 and over	1.250

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars ($400) per month for all service of a member any of whose service has been included in the federal system.

(c) This section shall supersede Section 21353 for all school members, all university members, and all state miscellaneous members, with respect to service rendered for the California State University or the legislative or judicial branch of government, who retire on or after January 1, 2000.

(d) This section shall also supersede Section 21353 for state miscellaneous or state industrial members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000, and who do not elect under Section 21070.5 to be subject to Second Tier benefits.

(e) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 33. Section 21362 of the Government Code is amended to read:

21362. (a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of patrol service and local safety service subject to this section with which he or she is credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750

52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the 80-percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) With respect to patrol members, this section shall only apply to patrol members who are not employed by the state on or after January 1, 2000.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 33.5. Section 21362 of the Government Code is amended to read:

21362. (a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of patrol service and local safety service subject to this section with which he or she is credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150

54 3/4	1.3325
55 and over	1.3500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) With respect to patrol members, this section shall only apply to patrol members who are not employed by the state on or after January 1, 2000.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 34. Section 21362.2 is added to the Government Code, to read:

21362.2. (a) The combined current and prior service pension for state patrol members and for local safety members with respect to local safety service rendered to a contracting agency that is subject to the provisions of this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member at the date of his or her retirement to 3 percent of his or her final compensation at the age of 50 years, multiplied by the number of years of patrol service or local safety service subject to this section with which he or she is credited at retirement.

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state patrol members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state patrol member has service under this section with both state and local agency employers, the 90 percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) For patrol members employed by the state on or after January 1, 2000, this section shall supersede Section 21362.

(d) This section shall not apply to state safety or state peace officer/firefighter members.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21362, 21363, 21363.1, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(h) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

SEC. 35. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875

54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the 80-percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized

employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the legislative or judicial branch of government, this section shall apply to any state peace officer/firefighter member who is not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 35.2. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with

respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one

employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the 80-percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to

remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the legislative or judicial branch of government, this section shall apply to any state peace officer/firefighter member who is not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 35.4. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers including, but not limited to, service subject to Section 21363.5 and 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by

increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the legislative or judicial branch of

government, this section shall apply to any state peace officer/firefighter member who is not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 35.6. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625

51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers including, but not limited to, service subject to Section 21363.5 or 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the

earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the legislative or judicial branch of government, this section shall apply to any state peace officer/firefighter member who is not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new

comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 36. Section 21363.1 is added to the Government Code, to read:

21363.1. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	.800
50 1/4	.810
50 1/2	.820
50 3/4	.830
51	.840
51 1/4	.850
51 1/2	.860
51 3/4	.870
52	.880
52 1/4	.890
52 1/2	.900
52 3/4	.910

53	.920
53 1/4	.930
53 1/2	.940
53 3/4	.950
54	.960
54 1/4	.970
54 1/2	.980
54 3/4	.990
55 and over	1.000

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state peace officer/firefighter members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. The 80 percent limit shall apply to a state peace officer/firefighter member employed by the state on or after January 1, 2000, who has service under this section with both state and local agency employers and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) This section shall supersede Section 21363 for state peace officer/firefighter members with respect to service rendered for the legislative or judicial branch of government.

(d) This section shall also supersede Section 21363 for state peace officer/firefighter members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety

members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(h) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(i) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 37. Section 21363.5 of the Government Code is amended to read:

21363.5. (a) Notwithstanding Section 21363 or 21363.1, the limitation on the service retirement benefit shall be 85 percent for state peace officer/firefighter members in State Bargaining Units 6 and 8 who retire on and after January 1, 1999. This provision may also be applied to state peace officer/firefighter members in related supervisory or confidential positions, provided the Department of Personnel Administration has approved this inclusion in writing to the board.

(b) On and after January 1, 2000, if the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 38. Section 21363.6 of the Government Code is repealed.

SEC. 39. Section 21369 of the Government Code is amended to read:

21369. (a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this

section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

If the retirement age occurs at:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with

respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the 80-percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This subdivision shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety service to the agency, if any of the local safety service has been included in the federal system.

(g) With the exception of state safety members for service rendered for the California State University, this section shall apply to state safety members who are not employed by the state on or after January 1, 2000.

(h) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 39.5. Section 21369 of the Government Code is amended to read:

21369. (a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon

retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

If the retirement age occurs at:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This subdivision shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety service to the agency, if any of the local safety service has been included in the federal system.

(g) With the exception of state safety members for service rendered for the California State University, this section shall apply to state safety members who are not employed by the state on or after January 1, 2000.

(h) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 40. Section 21369.1 is added to the Government Code, to read:

21369.1. (a) The combined current and prior service pensions for state safety members subject to this section with respect to state safety service that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state safety service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	0.8500
50 1/4	0.8625
50 1/2	0.8750
50 3/4	0.8875
51	0.9000
51 1/4	0.9125
51 1/2	0.9250
51 3/4	0.9375
52	0.9500
52 1/4	0.9625
52 1/2	0.9750
52 3/4	0.9875
53	1.0000
53 1/4	1.0320
53 1/2	1.0630
53 3/4	1.0940
54	1.1250
54 1/4	1.1570
54 1/2	1.1880
54 3/4	1.2190
55 and over	1.2500

(b) For state safety members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state safety member employed by the state on or after January 1, 2000, has service with both state and local agency employers and other local agency service, the 80-percent limit shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the state employer.

(c) This section shall supersede Section 21369 for state safety members with respect to service rendered for the California State University.

(d) This section shall also supersede Section 21369 for state safety members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(g) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 41. Section 21372 of the Government Code is amended to read:

21372. The combined current and prior service pensions of a state safety member who on March 31, 1973, was a forestry member not subject to former Section 21252.3, as added by Chapter 131 of the Statutes of 1970, shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973, and the member shall not become subject to Section 21369 or 21369.1 unless he or she thereafter accepts appointment to a position in another state department in which he or she is a state safety member, and in that event he or she shall be subject to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

SEC. 42. Section 21373 of the Government Code is amended to read:

21373. The combined current and prior service pensions for a state safety member who on March 31, 1973, was a law enforcement member not subject to Section 21369, shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973, rather than Section 21369 if under those provisions he or she is entitled to a retirement allowance exceeding 2 percent of final compensation per year of his or her law enforcement service, unless he or she elects in writing to be subject to Section 21369 and the election is filed in the office of the board within 30 calendar days following April 1, 1973. Any member who does not so elect and thereafter accepts appointment to a position in another state department in which he or she is a state safety member shall become subject, upon that acceptance, to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

SEC. 43. Section 21374 of the Government Code is amended to read:

21374. The combined current and prior service pensions for a state safety member who on March 31, 1973, was a warden member shall be determined in accordance with this part as it read and applied to him or her on March 31, 1973, if on March 31, 1973, he or she was either: (a) in compensated employment in which he or she was a warden member, or (b) on leave of absence from that employment and who either: (1) has attained the age of 55 years, or (2), if on that date he or she was subject to former Section 21252.2, as amended by Chapter 752 of the Statutes of 1969, he or she entered warden service after attaining the age of 35 years, unless he or she elects in writing to be subject to Section 21369 and the election is filed in the office of the board within 30 calendar days following April 1, 1973.

Any member who thereafter accepts an appointment to a position in another state department in which he or she is a state safety member shall become subject to Section 21369 or 21369.1, as applicable, with respect to all of his or her state safety service.

SEC. 44. Section 21403 of the Government Code is amended to read:

21403. Upon retirement for nonindustrial disability, a patrol member or local safety member subject to Section 21362, 21362.2, 21363, or 21363.1 or a state peace officer/firefighter member who has attained the age of 50 years, or a state safety member who has attained the age of 55 years shall receive his or her service retirement allowance.

SEC. 45. Section 21407 of the Government Code is amended to read:

21407. Upon retirement of a state peace officer/firefighter member or a local safety member subject to Section 21363 or 21363.1 for industrial disability, the member shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional

contributions, if any, or, if qualified for service retirement, the member shall receive his or her service retirement allowance if the allowance, after deducting the annuity, is greater.

SEC. 46. Section 21572 of the Government Code is amended to read:

21572. (a) In lieu of benefits provided in Section 21571, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) per month if there is one child or five hundred thirty-eight dollars ($538) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death and has not remarried subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20057, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section shall not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(g) A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

(h) On and after January 1, 2000, and until January 1, 2010, all state members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state members not covered by Section 21573 or 21574.7 shall be covered by this section.

SEC. 46.5. Section 21572 of the Government Code is amended to read:

21572. (a) In lieu of benefits provided in Section 21571, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made, in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars ($450) per month if there is one child or five hundred thirty-eight dollars ($538) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all those children

and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars ($225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars ($450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this paragraph, while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars ($88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20057, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and liabilities of all school employers, and their

employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section shall not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(g) A contracting agency may, by amending its contract, elect to make this section applicable to local members employed by the agency.

(h) On and after January 1, 2000, and until January 1, 2010, all state members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state members not covered by Section 21573 or 21574.7 shall be covered by this section.

SEC. 47. Section 21573 of the Government Code is amended to read:

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one child, or eight hundred forty dollars ($840) per month if there are two or more children. If there

also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state

agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on and after January 1, 1994, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its

1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) On and after January 1, 2000, and until January 1, 2010, all state and school members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state and school members not covered by Section 21572 or 21574.7 shall be covered by this section.

SEC. 47.2. Section 21573 of the Government Code is amended to read:

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one child, or eight hundred forty dollars ($840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on and after January 1, 1994, or any contracting agency amending its

contract to remove exclusions of member classifications on or after January 1, 1994, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) On and after January 1, 2000, and until January 1, 2010, all state and school members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state and school members not covered by Section 21572 or 21574.7 shall be covered by this section.

(k) This section shall not apply to any member in the employ of a contracting agency not subject to this section on and after January 1, 2000.

SEC. 47.4. Section 21573 of the Government Code is amended to read:

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one child, or eight hundred forty dollars ($840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month

while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable

to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on and after January 1, 1994, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) On and after January 1, 2000, and until January 1, 2010, all state and school members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state and school members not covered by Section 21572 or 21574.7 shall be covered by this section.

SEC. 47.6. Section 21573 of the Government Code is amended to read:

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section

21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one child, or eight hundred forty dollars ($840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence

of the injury or onset of the illness that resulted in death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and

a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on and after January 1, 1994, or any contracting agency amending its contract to remove exclusions of member classifications on or after January 1, 1994, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) On and after January 1, 2000, and until January 1, 2010, all state and school members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state and school members not covered by Section 21572 or 21574.7 shall be covered by this section.

(k) This section shall not apply to any member in the employ of a contracting agency not subject to this section on and after January 1, 2000.

SEC. 48. Section 21573.5 of the Government Code is repealed.

SEC. 49. Section 21574.7 is added to the Government Code, to read:

21574.7. (a) In lieu of benefits provided in Section 21571, 21572, 21573, or 21574, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the employer, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand five hundred dollars ($1,500) per month if there is one child or one thousand eight hundred dollars ($1,800) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of seven hundred fifty dollars ($750) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so

incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid seven hundred fifty dollars ($750) per month.

(B) If there are two children, the children shall be paid one thousand five hundred dollars ($1,500) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand eight hundred dollars ($1,800) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid seven hundred fifty dollars ($750) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred dollars ($300) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid seven hundred fifty dollars ($750) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to state and school members effective on or after January 1, 2000. All assets and liabilities of employers subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of state and school members employed by the state or a school employer.

(e) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board. Surplus assets shall be applied to reduce the rate of contribution. If a deficit exists, the rate of contribution shall be increased until the deficit is paid.

(f) On and after January 1, 2000, and until January 1, 2010, all state employees and school members shall be covered by this section.

(g) This section shall be repealed on January 1, 2010, unless a later enacted statute, that becomes effective on or before January 1, 2010, deletes or extends that date.

SEC. 50. Section 21581 of the Government Code is amended to read:

21581. (a) The rate of contribution of a member subject to this article shall include, in addition to his or her normal rate, two dollars ($2) per month or fraction thereof, or ninety-three cents ($0.93) for each biweekly payroll period or fraction thereof, where salaries are paid on that basis. Those contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Those contributions shall be available only for payment of 1959 survivor allowances.

(b) Notwithstanding subdivision (a), the total monthly premium required for Section 21574.7, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. Member contributions shall be two dollars ($2) per month until such time as the future required monthly premium exceeds four dollars ($4), and the employer shall pay the difference between the total required monthly premium and the member's contribution. Once the total required monthly premium exceeds four dollars ($4), the member and the employer shall evenly share the required monthly premium.

SEC. 50.5. Section 21581 of the Government Code is amended to read:

21581. (a) The rate of contribution of a member subject to this article shall include, in addition to his or her normal rate, two dollars ($2) per month or fraction thereof, or ninety-three cents ($0.93) for each biweekly payroll period or fraction thereof, where salaries are paid on that basis. Those contributions shall not become a part of a member's accumulated contributions or be treated or administered as normal contributions and shall not be refundable to a member under any circumstances. Those contributions shall be available only for payment of 1959 survivor allowances.

(b) Notwithstanding subdivision (a), the total monthly premium required for Section 21574.5, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. If the total monthly premium is equal to, or less than, four dollars ($4), the member contribution portion shall be two dollars ($2) per month and the employer shall pay the difference, if any. If the total monthly premium required exceeds four dollars ($4), the member and the employer shall evenly share the total required monthly premium.

(c) Notwithstanding subdivision (a), the total monthly premium required for Section 21574.7, as determined by the board, shall be offset by the uniform amortization of surplus assets within this account. Member contributions shall be two dollars ($2) per month

until such time as the future required monthly premium exceeds four dollars ($4), and the employer shall pay the difference between the total required monthly premium and the member's contribution. Once the total required monthly premium exceeds four dollars ($4), the member and the employer shall evenly share the required monthly premium.

SEC. 51. Section 2.5 of this bill incorporates amendments to Section 20391 of the Government Code proposed by both this bill and AB 813. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 20391 of the Government Code, and (3) this bill is enacted after AB 813, in which case Section 2 of this bill shall not become operative.

SEC. 52. Section 12.5 of this bill incorporates amendments to Section 20677 of the Government Code proposed by both this bill and SB 401. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 20677 of the Government Code, and (3) this bill is enacted after SB 401, in which case Section 12 of this bill shall not become operative.

SEC. 53. Section 29.5 of this bill incorporates amendments to Section 21337 of the Government Code proposed by both this bill and SB 234. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill affects Section 21337 of the Government Code, and (3) this bill is enacted after SB 234, in which case Section 29 of this bill shall not become operative.

SEC. 54. Section 33.5 of this bill incorporates amendments to Section 21362 of the Government Code proposed by both this bill and SB 339. Except as provided in Section 55, it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21362 of the Government Code, and (3) this bill is enacted after SB 339, in which case Section 33 of this bill shall not become operative.

SEC. 55. Section 33.5 of this bill incorporates amendments to Section 21362 of the Government Code proposed by both this bill and SB 800. Except as provided in Section 54, it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21362 of the Government Code, and (3) this bill is enacted after SB 800, in which case Section 33 of this bill shall not become operative.

SEC. 56. (a) Section 35.2 of this bill incorporates amendments to Section 21363 of the Government Code proposed by both this bill and AB 813. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21363 of the Government Code, and (3) SB 339 and SB 800 is not enacted or as enacted do not amend that section, and

(4) this bill is enacted after AB 813, in which case Sections 35, 35.4, and 35.6 of this bill shall not become operative.

(b) Section 35.4 of this bill incorporates amendments to Section 21363 of the Government Code proposed by both this bill and SB 800. Except as provided in subdivision (c), it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21363 of the Government Code, (3) AB 813 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 800 in which case Sections 35, 35.2, and 35.6 of this bill shall not become operative.

(c) Section 35.4 of this bill incorporates amendments to Section 21363 of the Government Code proposed by this bill and SB 339. Except as provided in subdivision (b), it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21363 of the Government Code, (3) AB 813 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 339, in which case Sections 35, 35.2, and 35.6 of this bill shall not become operative.

(d) Section 35.6 of this bill incorporates amendments to Section 21363 of the Government Code proposed by this bill, AB 813, SB 339, and SB 800. It shall only become operative if (1) this bill and AB 813 and either SB 339 or SB 800, or both, are enacted and become effective on or before January 1, 2000, (2) all of the enacted bills amend Section 21363 of the Government Code, and (3) this bill is enacted last, in which case Sections 35, 35.2, and 35.4 of this bill shall not become operative.

SEC. 57. Section 39.5 of this bill incorporates amendments to Section 21369 of the Government Code proposed by both this bill and SB 339. Except as provided in Section 58, it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21369 of the Government Code, and (3) this bill is enacted after SB 339, in which case Section 39 of this bill shall not become operative.

SEC. 58. Section 39.5 of this bill incorporates amendments to Section 21369 of the Government Code proposed by both this bill and SB 800. Except as provided in Section 57, it shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21369 of the Government Code, and (3) this bill is enacted after SB 800, in which case Section 39 of this bill shall not become operative.

SEC. 59. Section 46.5 of this bill incorporates amendments to Section 21572 of the Government Code proposed by both this bill and AB 232. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21572 of the Government Code, and (3) this bill is enacted after AB 232, in which case Section 46 of this bill shall not become operative.

SEC. 60. (a) Section 47.2 of this bill incorporates amendments to Section 21573 of the Government Code proposed by both this bill and AB 99. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21573 of the Government Code, and (3) AB 232 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 99, in which case Sections 47, 47.4, and 47.6 of this bill shall not become operative.

(b) Section 47.4 of this bill incorporates amendments to Section 21573 of the Government Code proposed by both this bill and AB 232. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21573 of the Government Code, (3) AB 99 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 232 in which case Sections 47, 47.2, and 47.6 of this bill shall not become operative.

(c) Section 47.6 of this bill incorporates amendments to Section 21573 of the Government Code proposed by this bill, AB 99, and AB 232. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bills amend Section 21573 of the Government Code, and (3) this bill is enacted after AB 99 and AB 232, in which case Sections 47, 47.2, and 47.4 of this bill shall not become operative.

SEC. 61. Section 50.5 of this bill incorporates amendments to Section 21581 of the Government Code proposed by both this bill and AB 99. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21581 of the Government Code, and (3) this bill is enacted after AB 99, in which case Section 50 of this bill shall not become operative.

CHAPTER 556

An act to amend Section 1696.4 of the Labor Code, and to amend Sections 31401 and 31404 of, and to add Sections 2429.5 and 31408 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 1696.4 of the Labor Code is amended to read:

1696.4. (a) All vehicles defined in Section 322 of the Vehicle Code, including those described in Section 1696.3, used by a farm

labor contractor for the transportation of individuals in his or her operations as a farm labor contractor, including, but not limited to, vehicles not owned by that contractor, shall be registered with the Labor Commissioner. The registration shall include the name of the owner and driver of the vehicle, and the license number and description of the vehicle. The Labor Commissioner shall require, as a condition of registration, that the farm labor contractor submit evidence showing that the contractor has in effect an insurance policy applicable to the vehicle, as required by Section 1695.

(b) Commencing on April 1, 2000, and quarterly thereafter, the Labor Commissioner shall provide the Commissioner of the California Highway Patrol with a list of all vehicles registered pursuant to subdivision (a).

SEC. 2. Section 2429.5 is added to the Vehicle Code, to read:

2429.5. The department, in cooperation with county and local farm bureaus, shall provide a program to educate growers and farmers and farm labor vehicle owners and drivers regarding farm labor vehicle certification requirements, including, but not limited to, certification requirements for farm labor vehicle drivers.

SEC. 3. Section 31401 of the Vehicle Code is amended to read:

31401. (a) The department shall adopt regulations designed to promote the safe operation of farm labor vehicles described in Section 322, including, but not limited to, vehicular design, equipment, passenger safety, and seating.

(b) The department shall inspect every farm labor vehicle described in Section 322 at least once annually to ascertain whether its construction, design, and equipment comply with all provisions of law. No person shall drive any farm labor vehicle described in Section 322 unless there is displayed therein a certificate issued by the department stating that on a stated day, which shall be within 13 months of the date of operation, an authorized employee of the department inspected the vehicle and found on the date of inspection the vehicle complied with applicable regulations relating to construction, design, and equipment. The commissioner shall provide by rule or regulation for the issuance and display of distinctive inspection certificates.

(c) The department may inspect any vehicle subject to these regulations in maintenance facilities, terminals, labor camps, or other private property of the vehicle owner or the farm labor contractor to insure compliance with the provisions of this code and regulations adopted pursuant to this section.

(d) The owner of any farm labor vehicle or any farm labor contractor, as defined in Section 1682 of the Labor Code, who rents a farm labor vehicle or who otherwise uses a farm labor vehicle to transport individuals is responsible for the inspection required under subdivision (b).

(e) An owner of any farm labor vehicle or any farm labor contractor who operates a farm labor vehicle under the

circumstances described in subdivision (d) may not operate that vehicle unless the vehicle has a current certificate described in subdivision (b).

(f) It is unlawful to violate any provision of these regulations or this section.

SEC. 4. Section 31404 of the Vehicle Code is amended to read:

31404. Any person who operates, or any owner or farm labor contractor who knowingly allows the operation of, a farm labor vehicle in violation of subdivision (b) or (d) of Section 31401 or Section 31402 or 31403 is guilty of a misdemeanor. When a person has been convicted of willfully violating those provisions, the person shall, in addition, be fined not less than one thousand dollars ($1,000) for each violation, and no part of the fine may be suspended. If passengers are in the vehicle at the time of the violation, the person shall, in addition, be fined five hundred dollars ($500) for each passenger, not to exceed a total of five thousand dollars ($5,000) for each violation, and no part of this fine may be suspended. As used in this section, the terms "knowingly" and "willfully" have the same meaning as prescribed in Section 7 of the Penal Code.

SEC. 5. Section 31408 is added to the Vehicle Code, to read:

31408. No person may operate a farm labor vehicle on a highway unless both headlamps required under Section 24400 are lighted, regardless of the time of day.

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.

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 for the provisions enhancing farm labor vehicle safety to take effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 557

An act to amend Section 27315 of, and to add Sections 2429, 4154, 4453.2, 31401.5, and 31405 to, the Vehicle Code, relating to vehicles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 2429 is added to the Vehicle Code, to read:

2429. The department shall develop an "800" telephone number system to facilitate public reporting of violations of Article 2 (commencing with Section 31400) of Chapter 5 of Division 13. The department shall include in the department's "El Protector Program" public outreach activities that publicize the "800" telephone number system.

SEC. 1.5. Section 4154 is added to the Vehicle Code, to read:

4154. The department may not issue or renew the registration of a farm labor vehicle unless the owner of the vehicle provides verification to the department that the inspection required by Section 31401 has been performed. For these purposes, the department shall determine what constitutes appropriate verification.

SEC. 2. Section 4453.2 is added to the Vehicle Code, to read:

4453.2. In addition to the information required under Section 4453, the registration card of every farm labor vehicle shall contain the words, "Farm Labor Vehicle," in conjunction with the vehicle identification information.

SEC. 3. Section 27315 of the Vehicle Code is amended to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Motor Vehicle Safety Act.

(c) (1) As used in this section, "motor vehicle" means any passenger vehicle or any motortruck or truck tractor, but does not include a motorcycle.

(2) Until May 1, 2000, for purposes of this section, a "motor vehicle" also means any farm labor vehicle that was first issued an inspection certificate under Section 31401 on or after October 1, 1999.

(3) On and after May 1, 2000, for purposes of this section, a "motor vehicle" also means any farm labor vehicle, regardless of date of certification under Section 31401.

(d) (1) No person shall operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street and is engaged in the transportation of a fare-paying passenger. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt any more stringent or restrictive standards imposed by the Labor Code or any other state or federal regulation regarding the transportation of employees in a motor vehicle.

(2) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers four years of age or over and weighing 40 pounds or more, in the front seat are properly restrained by a safety belt.

(3) The operator of a taxicab shall not operate the taxicab unless any passengers four years of age or over and weighing 40 pounds or more, in the front seat are properly restrained by a safety belt.

(e) No person 16 years of age or over shall be a passenger in a motor vehicle on a highway unless that person is properly restrained by a safety belt. This subdivision does not apply to a passenger in a sleeper berth, as defined in subdivision (v) of Section 1201 of Title 13 of the California Code of Regulations.

(f) Every owner of a motor vehicle, including every owner or operator of a taxicab, as defined in Section 27908, or a limousine for hire, operated on a highway shall maintain safety belts in good working order for the use of occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition which would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate. This section also does not apply to a public employee, when in an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, or to any passenger in any seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the public employee, unless required by the agency employing the public employee.

(h) Notwithstanding subdivision (a) of Section 42001, any violation of subdivision (d), (e), or (f) is an infraction punishable by

a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or a driving school in which the proper use of safety belts is demonstrated.

(i) For any violation of subdivision (d), (e), or (f), in addition to the fines provided for pursuant to subdivision (h) and the penalty assessments provided for pursuant to Section 1464 of the Penal Code, an additional penalty assessment of two dollars ($2) shall be levied for any first offense, and an additional penalty assessment of five dollars ($5) shall be levied for any subsequent offense.

All moneys collected pursuant to this subdivision shall be utilized in accordance with Section 1464 of the Penal Code.

(j) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(k) If the United States Secretary of Transportation fails to adopt safety standards for manual safety belt systems by September 1, 1989, no motor vehicle manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices adopted by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.

(*l*) Each motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. Any automobile manufacturer who sells or delivers a motor vehicle subject to the requirements of this subdivision, and fails to comply with this subdivision, shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying motor vehicle.

(m) Compliance with subdivision (k) or (*l*) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(n) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is properly restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(o) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is properly restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(p) This section does not apply to a driver actually engaged in the collection of solid waste or recyclable materials along that driver's collection route if the driver is properly restrained by a safety belt prior to commencing and subsequent to completing the collection route.

(q) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the United States Secretary of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) which requires the installation of automatic restraints in new motor vehicles, except that those subdivisions shall not become inoperative if the secretary's decision to rescind that Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

SEC. 4. Section 31401.5 is added to the Vehicle Code, to read:

31401.5. (a) The department shall develop, by regulation, specifications for a display sticker that shall be clearly displayed on every farm labor vehicle. This display sticker shall list the inspection certification date pursuant to this section and the "800" telephone reporting system required by Section 2429.

(b) The regulations of the department shall require every owner or operator of a farm labor vehicle to request the scheduling of the inspection required under subdivision (b) of Section 31401 as follows:

(1) The owner or operator of a farm labor vehicle that has a current inspection certificate pursuant to Section 31401 shall make the request for inspection not later than four weeks prior to the expiration date of the certificate.

(2) The owner or operator of a farm labor vehicle required to have its initial inspection shall make the request for inspection not later than three business days prior to the requested date.

(c) In no event shall the owner or operator of a farm labor vehicle allow the operation of a farm labor vehicle without the proper certification requirements specified under Section 31401.

SEC. 5. Section 31405 is added to the Vehicle Code, to read:

31405. (a) On or before May 1, 2000, every farm labor vehicle issued an inspection certificate under Section 31401 between October 1, 1998, and October 1, 1999, shall be equipped at each passenger position with a Type 1 or Type 2 seatbelt assembly, conforming to the specifications set forth in Section 571.209 of Title 49 of the Code of Federal Regulations, that is anchored to the vehicle in a manner that conforms to the specifications of Section 571.210 of Title 49 of the Code of Federal Regulations.

(b) On or after October 1, 1999, the department may not issue an initial inspection certificate under Section 31401 to any vehicle that is not equipped with a seatbelt assembly at each passenger position, as described in subdivision (a).

(c) The owner of a farm labor vehicle shall maintain all seatbelt assemblies and seatbelt assembly anchorages required under this section in good working order for the use of passengers.

(d) No person may operate a farm labor vehicle on a highway unless that person and all passengers are properly restrained by a seatbelt assembly that conforms to this section.

(e) The department shall adopt regulations to implement this section.

SEC. 6. The Department of the California Highway Patrol shall prepare and submit to the Legislature reports on July 1, 2000, January 1, 2001, and January 1, 2002, that evaluate the implementation of Sections 1 to 4, inclusive, of this bill and the effectiveness of its provisions in improving the safety of farm labor vehicles.

SEC. 7. The sum of one million seven hundred fifty thousand dollars ($1,750,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department the California Highway Patrol for the purpose of increasing the number of special California Highway Patrol officers charged with enforcing laws prohibiting illegal transportation of agricultural workers, including, but not limited to, enforcing the requirement under Section 27315 of the Vehicle Code that farm labor vehicles, as defined in Section 322 of the Vehicle Code, be equipped with safety belts.

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.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide, at the earliest possible time, for the safety of persons transported in farm labor vehicles, it is necessary that this act take effect immediately.

CHAPTER 558

An act to add and repeal Section 1281.5 of the Unemployment Insurance Code, relating to unemployment compensation, making

an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Severe freezing weather conditions which occurred in California in December 1998 caused more than one billion dollars ($1,000,000,000) in damages to crops.

(b) The agriculture-dependent local economies in rural California where growers and agricultural workers live will suffer economic depression.

(c) Thousands of skilled workers have lost or will lose their jobs as a result of the freezing weather conditions.

(d) Many agricultural employees who receive hourly wages are low-income individuals who can least afford to be unemployed.

(e) The benefits of this act are intended as an extraordinary, one-time statewide response to this emergency, and are not to be construed to make any enduring structural change to the unemployment compensation program or to provide a precedent to seek similar or comparable benefits in the future.

SEC. 2. Section 1281.5 is added to the Unemployment Insurance Code, to read:

1281.5. (a) Any unemployed individual who, as determined by the director, has been laid off from work or is unable to commence work as a direct result of freezing weather conditions which occurred in this state in December 1998 at the individual's most recent workplace or regular seasonal workplace whose continuing unemployment is a direct result of the freezing weather and who is otherwise eligible to receive benefits under this part, is eligible for an additional maximum of 26 times his or her weekly benefit amount.

(b) To the extent permitted by federal law, benefits payable under this section shall be available only when an individual has exhausted or is otherwise ineligible for other state or federal unemployment compensation. In the event an individual becomes eligible for federal-state extended unemployment compensation benefits prior to August 8, 1999, that individual shall become ineligible for benefits under this section to the extent he or she is eligible for and receives federal-state extended unemployment benefits.

(c) Benefits shall be payable under this section only pursuant to claims made on or before July 31, 2000.

(d) (1) Any unemployed individual who, as determined by the director, has been unemployed as a direct result of freezing weather conditions that occurred in December 1998 and who opens a claim

for benefits on or after August 8, 1999, and can demonstrate that his or her maximum benefits or weekly benefit amount has been reduced as a result of wage credits lost due to the freeze and that he or she is otherwise eligible to receive benefits under this part, shall, at the claimant's election, have his or her weekly benefit amount and maximum benefits calculated based upon the base period ending December 31, 1998, or the base period established by the claimant's most recent unemployment insurance claim, whichever is greater.

(2) This subdivision shall be inapplicable in the event that the director makes a determination, after a public hearing, that the earning levels of freeze-affected individuals have not been significantly reduced as a result of freeze-related unemployment, layoffs, or underemployment during the 1999 calendar year.

(e) This section shall remain in effect only until August 1, 2000, and as of that date is repealed.

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

Because workers of low and moderate income are in need of financial support as soon as possible as a result of an unforeseen natural disaster, it is necessary for this act to take effect immediately.

CHAPTER 559

An act to amend Section 401 of, and to add Section 72.1 to, the Streets and Highways Code, relating to highways.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 72.1 is added to the Streets and Highways Code, to read:

72.1. (a) For purposes of this section, the following terms have the following meanings:

(1) "Central Freeway Replacement Project" is the department and city designated alternative transportation system to the damaged Central Freeway.

(2) "City" is the City and County of San Francisco.

(3) "Freeway Project" includes demolition of the existing commonly known Central Freeway, construction of a new freeway between Mission Street and Market Street, and construction of ramps to, and from, the new freeway.

(4) "Octavia Street Project" is the improvement of Octavia Street from Market Street north as a ground level boulevard.

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

(1) That portion of Route 101 located in the city and commonly known as the Central Freeway was severely damaged in the 1989 Loma Prieta earthquake. This damage to the Central Freeway caused and continues to cause significant traffic congestion.

(2) Following the Loma Prieta earthquake, the department and the city, with substantial public involvement, selected the Central Freeway Replacement Project as an alternative transportation system to the damaged Central Freeway in accordance with the requirements of Section 401.1. The Central Freeway Replacement Project includes the Freeway Project consisting of the demolition of the existing Central Freeway, construction of a new freeway between Mission Street and Market Street, and the construction of ramps to, and from, the new freeway, and the Octavia Street Project, consisting of improvement of Octavia Street from Market Street north as a ground level boulevard. The Central Freeway Replacement Project will remediate traffic congestion problems and allow the city to reclaim unnecessary rights-of-way for beneficial public uses.

(3) The implementation of an alternative transportation system is in the best interests of the people of the State of California.

(4) No portions of Route 101 north of Fell Street and south of Turk Street are needed for the Central Freeway Replacement Project or for the proposed alternative project to be placed before the voters as Proposition J in the general municipal election of November 1999.

(c) (1) The Legislature recognizes that the Central Freeway Replacement Project adopted by the city's voters, as local measure Proposition E in November 1998 qualifies for the statutory exemption under Section 180.2.

(2) The Legislature further recognizes that the proposed alternative project included in Proposition J also qualifies for the statutory exemption under Section 180.2.

(3) Notwithstanding paragraph (1), any development of property transferred to the city pursuant to this section may, to the extent required by applicable law, require subsequent environmental analysis by the city at the time at which the specific proposals for the use of that property are developed.

(d) That portion of Route 101 between Market Street and Turk Street is not a state highway, except that if the proposed alternative to the Octavia Street Project is approved by the voters in the general municipal election of November 1999, only that portion of Route 101 between Fell Street and Turk Street is not a state highway.

(e) The department shall retain jurisdiction over the portion of Route 101 that is between Mission Street and either Market Street or Fell Street, depending on which project is approved by the voters in the general municipal election of November 1999, and shall promptly transfer to the city any portion of Route 101 that is not a state highway under subdivision (d).

(f) The following shall apply if the voters do not approve the alternative project in the general municipal election of November 1999:

(1) The city shall utilize any proceeds from the disposition or use of excess rights-of-way for the purpose of designing, constructing, developing, and maintaining the Octavia Street Project until the city's share of the costs of that project are paid in full or funded from other sources. Upon the full funding of the city's share of the Octavia Street Project, the city shall utilize any remaining proceeds from the sale of excess rights-of-way solely for the transportation and related purposes authorized under Article XIX of the California Constitution.

(2) Upon notification to the department by the San Francisco County Transportation Authority that the city is prepared to implement an interim traffic management plan, the department shall proceed expeditiously with demolition of the portion of Route 101 between Fell and Mission Streets. The department shall design and construct the Freeway Project, and the city shall design and construct the Octavia Street Project, and each project shall be consistent with the Central Freeway Replacement Project.

SEC. 2. Section 401 of the Streets and Highways Code is amended to read:

401. Route 101 is from:

(a) Route 5 near Seventh Street in Los Angeles to Route 1, Funston approach, and, subject to Section 72.1, the approach to the Golden Gate Bridge in the Presidio of San Francisco via Santa Barbara, San Luis Obispo, and Salinas.

(b) A point in Marin County opposite San Francisco to the Oregon state line via Crescent City.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 560

An act to add Chapter 5.4 (commencing with Section 13369) to Division 7 of the Water Code, relating to water.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Chapter 5.4 (commencing with Section 13369) is added to Division 7 of the Water Code, to read:

CHAPTER 5.4. NONPOINT SOURCE POLLUTION CONTROL PROGRAM

13369. (a) (1) On or before February 1, 2001, the state board, in consultation with the regional boards, the California Coastal Commission, and other appropriate state agencies and advisory groups, as necessary, shall prepare a detailed program for the purpose of implementing the state's nonpoint source management plan. The board shall address all applicable provisions of the Clean Water Act , including Section 319 (33 U.S.C. Sec. 1329), as well as Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), and this division in the preparation of this detailed implementation program.

(2) (A) The program shall include all of the following components:

(i) Nonregulatory implementation of best management practices.

(ii) Regulatory-based incentives for best management practices.

(iii) The adoption and enforcement of waste discharge requirements that will require the implementation of best management practices.

(B) In connection with its duties under this subdivision to prepare and implement the state's nonpoint source management plan, the state board shall develop, on or before February 1, 2001, guidance to be used by the state board and the regional boards for the purpose of describing the process by which the state board and the regional boards will enforce the state's nonpoint source management plan, pursuant to this division.

(C) The adoption of the guidance developed pursuant to this section is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notwithstanding Section 7550.5 of the Government Code, and in consultation with the California Coastal Commission and other appropriate agencies, as necessary, the state board, on or before August 1 of each year, shall submit to the Legislature, and make available to the public, both of the following:

(1) Copies of all state and regional board reports that contain information related to nonpoint source pollution and that the state or regional boards were required to prepare in the previous fiscal year pursuant to Sections 303, 305(b), and 319 of the Clean Water Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec. 1455b), related regulations, and this division.

(2) A summary of information related to nonpoint source pollution that is set forth in the reports described pursuant to

paragraph (1) including, but not limited to, summaries of both of the following:

(A) Information that is related to nonpoint source pollution and that is required to be included in reports prepared pursuant to Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

(B) Information that is required to be in reports prepared pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C. Sec. 1329(h)(11)).

CHAPTER 561

An act to amend Sections 6250, 6251, 6252, and 6380 of the Family Code, to amend Section 273.6 of the Penal Code, and to add Section 15657.03 to the Welfare and Institutions Code, relating to elderly and dependent adults.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 6250 of the Family Code is amended to read:

6250. A judicial officer may issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe any of the following:

(a) That a person is in immediate and present danger of domestic violence, based on the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.

(b) That a child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.

(c) That a child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation of a recent threat to abduct the child or flee with the child from the jurisdiction.

(d) That an elder or dependent adult is in immediate and present danger of abuse as defined in Section 15610.07 of the Welfare and Institutions Code, based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse, .

SEC. 2. Section 6251 of the Family Code is amended to read:

6251. An emergency protective order may be issued only if the judicial officer finds both of the following:

(a) That reasonable grounds have been asserted to believe that an immediate and present danger of domestic violence exists, that a child is in immediate and present danger of abuse or abduction, or that an elder or dependent adult is in immediate and present danger of abuse as defined in Section 15610.07 of the Welfare and Institutions Code.

(b) That an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, or abuse of an elder or dependent adult.

SEC. 3. Section 6252 of the Family Code is amended to read:

6252. An emergency protective order may include any of the following specific orders, as appropriate:

(a) A protective order, as defined in Section 6218.

(b) An order determining the temporary care and control of any minor child of the endangered person and the person against whom the order is sought.

(c) An order authorized in Section 213.5 of the Welfare and Institutions Code, including provisions placing the temporary care and control of the endangered child and any other minor children in the family or household with the parent or guardian of the endangered child who is not a restrained party.

(d) An order determining the temporary care and control of any minor child who is in danger of being abducted.

(e) An order authorized by Section 15657.03 of the Welfare and Institutions Code.

SEC. 4. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Protective Order Registry, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued under subdivision (g) of Section 136.2 of the Penal Code shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment or domestic violence pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective order issued by the court of another state, tribe, or territory, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer

who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement agency.

(e) The Department of Justice shall maintain a Domestic Violence Protective Order Registry and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, territory, or reservation, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, ''electronic transmission'' shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

SEC. 4.5. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department

of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued under subdivision (g) of Section 136.2 of the Penal Code shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment or domestic violence pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the court of another state, as defined in Section 145, or a military tribunal or tribe, or territory, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement agency.

(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 145, or on a reservation, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision shall not apply to a valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a military tribunal, or a tribe. Those orders shall, upon request, be registered pursuant to Section 6380.5.

SEC. 5. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interest of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order described in subdivision (a).

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in

subdivision (a) that results in physical injury to the same victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interest of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders described in subdivisions (a), (b), (d), and (e).

(g) The court may order a person convicted under this section to undergo counseling, and, if appropriate, to complete a batterer's treatment program.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), or (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter or to a shelter for abused elder persons or dependent adults, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 5.5. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order

issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both that fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interest of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order described in subdivision (a).

(4) Any order issued by another state that is recognized under Section 6380.5 of the Family Code.

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) that results in physical injury to a victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interest of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this

subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders described in subdivisions (a), (b), (d), and (e).

(g) (1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), (c), (d), or (e), the court shall inforce probation consistent with the provisions of Section 1203.097 and the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter or to a shelter for abused elder persons or dependent adults, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 6. Section 15657.03 is added to the Welfare and Institutions Code, to read:

15657.03. (a) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(b) For the purposes of this section, "protective order" means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(1) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner.

(2) An order excluding a party from the petitioner's residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded or is in the name of the party to be excluded and any other party besides the petitioner.

(3) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in paragraph (1) or (2).

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) (1) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the petitioner.

(C) That physical or emotional harm would otherwise result to the petitioner.

(2) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25

days from the date the temporary restraining order is granted, unless the order is otherwise modified or terminated by the court.

(e) The court may issue, upon notice and a hearing, any of the orders set forth in subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the other party.

(f) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for three years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(g) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any affidavits in support of the petition. Service shall be made at least two days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(h) The court may, upon the filing of an affidavit by the applicant that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall be made returnable on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of reissuance. The reissued order shall state on its face the date of expiration of the order.

(i) (1) The court shall order the petitioner or the attorney for the petitioner to deliver, or the county clerk to mail, a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(2) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the

respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and send to the issuing court.

(3) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(4) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(j) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(k) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(*l*) (1) Fees otherwise payable by a petitioner to a law enforcement agency for serving an order issued under this section may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates, to the satisfaction of the court, the financial need of the petitioner for the fee waiver. The declaration required by this subdivision shall be on one of the following forms:

(A) The form formulated and adopted by the Judicial Council for litigants proceeding in forma pauperis pursuant to Section 68511.3 of the Government Code, but the petitioner is not subject to any other requirements of litigants proceeding in forma pauperis.

(B) Any other form that the Judicial Council may adopt for this purpose pursuant to subdivision (p).

(2) In conjunction with a hearing pursuant to this section, the court may make an order for the waiver of fees otherwise payable by the petitioner to a law enforcement agency for serving an order issued under this section.

(m) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(n) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(o) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code, by Chapter 3 (commencing with Section 525) of the Code of

Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(p) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 6380 of the Family Code proposed by both this bill and AB 825. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 6380 of the Family Code, and (3) this bill is enacted after AB 825, in which case Section 4 of this bill shall not become operative.

SEC. 8. Section 5.5 of this bill incorporates amendments to Section 273.6 of the Penal Code proposed by both this bill and SB 218. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 273.6 of the Penal Code, and (3) this bill is enacted after SB 218, in which case Section 5 of this bill shall not become operative.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 562

An act relating to highways.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. (a) Notwithstanding Section 7550.5 of the Government Code, on or before January 15, 2000, the Director of

Transportation shall submit a report to the Legislature identifying emergency improvements, involving either negligible or no expansion of highway capacity, including, but not limited to, passing lanes, that may be constructed prior to scheduled improvements included in the state transportation improvement program or a regional transportation improvement program, with the intent to prevent or mitigate an emergency situation on that portion of State Highway Route 46 in Kern County, west of State Highway Route 99.

(b) The report shall also include the estimated dates by which the improvements may be commenced and completed.

(c) An emergency improvement identified pursuant to subdivision (a) shall not result in the delay of, or have an adverse impact on, projects that are scheduled in the state transportation improvement program or a regional improvement program outside of the jurisdiction of the Kern County Regional Transportation Agency or in the State Highway Operations Pavement Protection Program.

(d) This section shall remain in effect only until June 1, 2001, and as of that date is repealed.

CHAPTER 563

An act to add Article 4.6 (commencing with Section 11415) to Chapter 3 of Title 1 of Part 4 the Penal Code, relating to terrorism.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Article 4.6 (commencing with Section 11415) is added to Chapter 3 of Title 1 of Part 4 of the Penal Code, to read:

Article 4.6. The Hertzberg-Alarcon California Prevention of Terrorism Act

11415. This article shall be known and may be cited as the Hertzberg-Alarcon California Prevention of Terrorism Act.

11416. The Legislature hereby finds and declares that the threat of terrorism involving weapons of mass destruction, including, but not limited to, chemical, biological, nuclear, or radiological agents, is a significant public safety concern. The Legislature also recognizes that terrorism involving weapons of mass destruction could result in an intentional disaster placing residents of California in great peril. The Legislature also finds it necessary to sanction the possession, manufacture, use, or threatened use of chemical, biological, nuclear, or radiological weapons, as well as the intentional use or threatened

use of industrial or commercial chemicals as weapons against persons or animals.

11417. (a) For the purposes of this article, the following terms have the following meanings:

(1) "Weapon of mass destruction" includes chemical warfare agents, weaponized biological or biologic warfare agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon.

(2) "Chemical Warfare Agents" includes, but is not limited to, the following weaponized agents, or any analog of these agents:

(A) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.

(B) Choking agents, including Phosgene (CG) and Diphosgene (DP).

(C) Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).

(D) Blister agents, including mustards (H, HD [sulfur mustard], HN-1, HN-2, HN-3 [nitrogen mustard]), arsenicals, such as Lewisite (L), urticants, such as CX; and incapacitating agents, such as BZ.

(3) "Weaponized biological or biologic warfare agents" include weaponized pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous biological regulators (EBRs).

(4) "Nuclear or radiological agents" includes any improvised nuclear device (IND) which is any explosive device designed to cause a nuclear yield; any radiological dispersal device (RDD) which is any explosive device utilized to spread radioactive material; or a simple radiological dispersal device (SRDD) which is any act or container designed to release radiological material as a weapon without an explosion.

(5) "Vector" means a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host.

(6) "Weaponization" is the deliberate processing, preparation, packaging, or synthesis of any substance for use as a weapon or munition. "Weaponized agents" are those agents or substances prepared for dissemination through any explosive, thermal, pneumatic, or mechanical means.

(b) The intentional release of a dangerous chemical or hazardous material generally utilized in an industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes those agents with the intent to cause harm and the use places persons or animals at risk of serious injury, illness, or death, or endangers the environment.

(c) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not proscribed by this article.

(d) No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC) pursuant to Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to this article.

11418. (a) Any person, without lawful authority, who possesses, develops, manufactures, produces, transfers, acquires, or retains any weapon of mass destruction, shall be guilty of a felony punishable in the state prison for 3, 6, or 9 years, provided that any person who has been previously convicted of Section 11411, 11412, 11413, 11460, 12303.1, 12303.2, or 12303.3 shall be punished by imprisonment in the state prison for a period of 4, 8, or 12 years.

(b) (1) Any person who uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread, disabling illness, or injury in human beings shall be punished by life in prison.

(2) Any person who uses a weapon of mass destruction in a form that may cause widespread damage to and disruption of the water or food supply shall be punished by imprisonment in the state prison for a term of 4, 8, or 12 years, and a fine of not more than one hundred thousand dollars ($100,000).

(3) Any person who maliciously uses against animals or crops a weapon of mass destruction in a form that may cause widespread and substantial diminution in the value of stock animals or crops shall be punished by a fine of not more than one hundred thousand dollars ($100,000), imprisonment in the state prison for 4, 8, or 12 years, or both.

(c) Any person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public natural resources, including coastal waterways and beaches, public parkland, surface waters, ground water, and wildlife, shall be punished by imprisonment in the state prison for 3, 4, or 6 years.

(d) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for the purposes specified in this section, shall be punished by imprisonment in a county jail for up to one year or in the state prison for 3, 6, or 9 years, or by a fine of not more than two hundred fifty thousand dollars ($250,000), or by both that fine and imprisonment.

(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

11418.5. (a) Any person who knowingly threatens to use a weapon of mass destruction, with the specific intent that the statement, made verbally, in writing, or by means of an electronic

communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety, or for his or her immediate family's safety, which results in an isolation, quarantine, or decontamination effort, shall be punished by imprisonment in a county jail for up to one year or in the state prison for 3, 4, or 6 years, or by a fine of not more than two hundred fifty thousand dollars ($250,000), or by both that fine and imprisonment.

(b) For the purposes of this section, "sustained fear" can be established by, but is not limited to, conduct such as evacuation of any building by any occupant, evacuation of any school by any employee or student, evacuation of any home by any resident or occupant, or any other action taken in direct response to the threat to use a weapon of mass destruction.

(c) The fact that the person who allegedly violated this section did not actually possess a biological agent, toxin, or chemical weapon does not constitute a defense to the crime specified in this section.

(d) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

11419. (a) Any person or entity possessing any of the restricted biological agents enumerated in subdivision (b) shall be punished by a fine of not more than two hundred fifty thousand dollars ($250,000), imprisonment in the state prison for 4, 8, or 12 years, or by both that fine and imprisonment.

(b) For the purposes of this section, "restricted biological agents" means the following:

(1) Viruses: Crimean-Congo hemorrhagic fever virus, eastern equine encephalitis virus, ebola viruses, equine morbilli virus, lassa fever virus, marburg virus, Rift Valley fever virus, South African hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome, yellow fever virus.

(2) Bacteria: bacillus anthracis (commonly known as anthrax), brucella abortus, brucella melitensis, brucella suis, burkholderia (pseudomonas) mallei, burkholderia (pseudomonas) pseudomallei, clostridium botulinum, francisella tularensis, yersinia pestis (commonly known as plague).

(3) Rickettsiae: coxiella burnetii, rickettsia prowazekii, rickettsia rickettsii.

(4) Fungi: coccidioides immitis.

(5) Toxins: abrin, aflatoxins, botulinum toxins, clostridium perfringens epsilon toxin, conotoxins, diacetoxyscirpenol, ricin,

saxitoxin, shigatoxin, staphylococcal enterotoxins, tetrodotoxin, T-2 toxin.

(c) (1) This section shall not apply to any physician, veterinarian, pharmacist, or licensed medical practitioner authorized to dispense a prescription under Section 11026 of the Health and Safety Code, or universities, research institutions, or pharmaceutical corporations, or any person possessing the agents pursuant to a lawful prescription issued by a person defined in Section 11026 of the Health and Safety Code, if the person possesses vaccine strains of the viral agents Junin virus strain #1, Rift Valley fever virus strain MP-12, Venezuelan equine encephalitis virus strain TC-83 and yellow fever virus strain 17-D; any vaccine strain described in Section 78.1 of Subpart A of Part 78 of Subchapter C of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions, and any toxin for medical use, inactivated for use as vaccines, or toxin preparation for biomedical research use at a median lethal dose for vertebrates of more than 100 ng/kg, as well as any national standard toxin required for biologic potency testing as described in Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions.

(2) For the purposes of this section, no person shall be deemed to be in possession of an agent if the person is naturally exposed to, or innocently infected or contaminated with, the agent.

(d) Any peace officer who encounters any of the restricted agents mentioned above shall immediately notify and consult with a local public health officer to ensure proper consideration of any public health risk.

(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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CHAPTER 564

An act to add and repeal Title 11.5 (commencing with Section 14170) of Part 4 of the Penal Code, relating to crime prevention, and making an appropriation therefor.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Title 11.5 (commencing with Section 14170) is added to Part 4 of the Penal Code, to read:

TITLE 11.5. RURAL CRIME PREVENTION PROGRAM

14170. (a) It is the intent of the Legislature in enacting this measure to enhance crime prevention efforts by establishing a pilot program to strengthen the ability of law enforcement agencies in rural areas to detect and monitor agricultural- and rural-based crimes.

(b) The County of Tulare has developed the Rural Crime Demonstration Project administered by the Tulare County District Attorney's Office under a joint powers agreement with the Tulare County Sheriff's Office entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

The parties to that agreement formed a task force to include the Office of the Tulare County Agricultural Commissioner. The task force is an interactive team working together to develop problem solving and crime control techniques, to encourage timely reporting of crimes, and to evaluate the results of these activities. The task force conducts joint operations in order to facilitate investigative coordination. The task force consults with experts from the United States military, the California Military Department, the Department of Justice, other law enforcement entities, and various other state and private organizations as deemed necessary to maximize the effectiveness of the task force. Media and community support have been solicited to promote the task force.

The Rural Crime Demonstration Project has proven its cost effectiveness. It is appropriate that the project be expanded into a program that will allow the County of Tulare to continue to operate the task force formed under the above described joint powers agreement, and to permit the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, and Stanislaus to establish their own programs, pursuant to the provisions of this title, and to collectively establish a task force for the prevention of rural crime in those counties.

(c) The Legislature finds and declares that California has experienced an escalation in agricultural crimes in general, both property and personal, and that there has been no concentrated effort applied to the prevention of crimes against the agricultural industry. Currently, no national or state agency keeps track of statistics on agricultural and rural crime. According to media reports, this state lost millions of dollars worth of crops, livestock, and equipment in 1994 and 1995. A majority of these crimes occurred in agricultural-based counties. However, there has been no effort on the part of any state or local agency to accurately record these types of crimes.

The Legislature further finds and declares that there are no state or local law enforcement agencies in this state with programs that are specially designed to detect or monitor agricultural- and rural-based criminal activities. In addition, local law enforcement agencies do not possess the jurisdictional authority, investigative facilities, or data systems to coordinate a comprehensive approach to the state's agricultural and rural crime problem.

The Legislature additionally finds and declares that the proliferation of agricultural and rural crime in the various rural counties of this state is a threat to the vitality of our rich agrarian tradition. Agricultural and rural crime, if left unchecked, endangers an entire industry that is vital to America's continued economic role in the world, and therefore requires a proactive response from the Legislature. The intent of the Legislature in authorizing the Rural Crime Prevention Program pursuant to this act is to provide for the protection and safety of the state's agriculture industry by creating statewide standards and methods of detecting and tracking agrarian and rural crime.

14171. (a) Each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare may develop within its respective jurisdiction a Rural Crime Prevention Program, which shall be administered by the county district attorney's office of each respective county under a joint powers agreement with the corresponding county sheriff's office entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(b) The parties to each agreement shall form a regional task force that shall be known as the Rural Crime Task Force, that includes the respective county office of the county agricultural commissioner, the county district attorney, the county sheriff, and interested property owner groups or associations. The task force shall be an interactive team working together to develop crime prevention, problem solving, and crime control techniques, to encourage timely reporting of crimes, and to evaluate the results of these activities. The task force shall operate from a joint facility in order to facilitate investigative coordination. The task force shall also consult with experts from the United States military, the California Military Department, the

Department of Justice, other law enforcement entities, and various other state and private organizations as deemed necessary to maximize the effectiveness of this program. Media and community support shall be solicited to promote this program. Each of the designated counties shall adopt rules and regulations for the implementation and administration of this program.

(1) In order to receive funds for this program, each designated county shall agree to participate in a regional task force, to be known as the Rural Crime Task Force, and shall appoint a representative to that task force.

(2) The Rural Crime Task Force shall develop rural crime prevention programs containing a system for reporting rural crimes, as defined in paragraph (4) of subdivision (d), that enables the swift recovery of stolen goods and the apprehension of criminal suspects for prosecution. The task force shall develop computer software and use communication technology to implement the reporting system, although the task force is not limited to the use of these means to achieve the stated goals.

(c) The staff for each program shall consist of the personnel designated by the district attorney and sheriff for each county in accordance with the joint powers agreement.

14172. By September 30, 2000, each designated county shall prepare and submit to the Legislative Analyst a detailed cost-benefit analysis of the entire program, wherein the cost to operate the program shall be measured against savings realized from crime prevention, crime suppression, and the number of prosecutions resulting from the program. These savings shall include the reduction of economic loss resulting from crime during the life of the project. The Legislative Analyst shall evaluate the program, in consultation with the Office of Criminal Justice Planning, and shall present its evaluation, including a detailed cost-benefit analysis of the entire program, to the Governor, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature, by December 31, 2000.

14173. It is the intent of the Legislature that the sum of three million five hundred forty-one thousand dollars ($3,541,000) appropriated for the purposes of this act in Schedule (vy) of Item 8100-101-0001 of the Budget Act of 1999 be distributed, in the following amounts:

Fresno	$792,625
Kern	592,625
Kings	292,625
Madera	192,625
Merced	292,625
San Joaquin	292,625

Stanislaus	292,625
Tulare	692,625

14174. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund, Schedule (vy) of Item 8100-101-0001 of the Budget Act of 1999, to the Legislative Analyst for the costs of preparing an evaluation of the Rural Crime Prevention Program, including a detailed cost-benefit analysis of the entire program, as required by Section 14172.

14175. This title shall become inoperative on June 30, 2000, and, is repealed as of January 1, 2001, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends the dates on which the title becomes inoperative and is repealed.

CHAPTER 565

An act to add Chapter 1.11 (commencing with Section 15365.40) to Part 6.7 of Division 3 of Title 2 of the Government Code, relating to trade and commerce.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Chapter 1.11 (commencing with Section 15365.40) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 1.11. PUBLIC-PRIVATE TRADE DEVELOPMENT ORGANIZATIONS

15365.40. The Legislature finds and declares as follows:

(a) Aggressive efforts to broaden the exportation of California-based goods and services are a key to sustaining the state's economy in the face of aggressive competition from government-funded programs of other states and countries.

(b) Public-private trade development organizations such as the CalTrade Coalition, Centers for International Trade Development, Regional Technology Alliances, and the Export Managers' Association of California, are effective at expanding California exports with support of the federal government, local governments, and the private sector. It is in the state's interest to use these organizations as cost-effective local delivery mechanisms of California trade services, especially to small- and medium-size businesses.

(c) It is therefore the intent of the Legislature to accomplish the following goals by developing and using a statewide alliance of public-private trade development organizations, as defined in subdivision (c) of Section 15365.41:

(1) Leverage available federal, local, public, and private investments in the organizations.

(2) Provide better local outreach and more "one-stop" delivery of export services to California businesses from entities, including, but not limited to, all of the following:

(A) State agencies, including, but not limited to, California overseas trade offices and other Trade and Commerce Agency programs, the Department of Food and Agriculture, California Community College EDNet Centers for International Trade Development, and the State Energy Resources Conservation and Development Commission.

(B) The private sector, including for-profit businesses and nonprofit organizations, such as regional alliances, partnerships, and economic development corporations.

(C) Federal government programs, including the United States Department of Commerce Commercial Service, the Export-Import Bank of the United States, the United States Department of Agriculture Foreign Agricultural Service, and other pertinent agencies.

(D) Local government, including, but not limited to, ports and airports.

(E) Other local community-based organizations committed to international trade development, such as chambers of commerce, as well as city, county, and regional economic development organizations, including members of the California Association of Local Economic Development, and any other appropriate organizations.

(3) Leverage investments in electronic resources that provide an information clearinghouse with tutorials and a data base of federal, state, and local international trade information.

(4) Support the Trade and Commerce Agency's development of an international trade strategy that addresses public-private partnerships, a federal-state-local division of labor, and local delivery of trade services.

15365.41. For the purposes of this chapter, the following definitions apply:

(a) "Agency" means the Trade and Commerce Agency.

(b) "Private sector" means private for-profit or nonprofit entities.

(c) "Public-private trade development organizations" means one or more organizations designated by the Trade and Commerce Agency that uses public and private resources to measurably increase California exports by providing coordinated services on a one-stop basis.

(d) "Public sector" means any branch or agency of the federal, state, or local government.

(e) "Statewide" means the ability to serve businesses and involve local stakeholders in a coordinated fashion in at least the majority of the Metropolitan Statistical Areas of California that evidence strong export potential, as demonstrated by appearing on the Exporter Location Series prepared by the United States Office of Trade and Economic Analysis.

15365.42. The agency shall work to develop a statewide alliance of public-private trade development organizations, as defined in subdivisions (c) and (e) of Section 15365.41, if determined to be feasible by the agency. The organizations may undertake all of the following tasks, under the leadership of the agency:

(a) Work with existing regional trade and development alliances and organizations to develop an appropriate structure, and to designate organizations that demonstrate the ability to meet criteria such as the following:

(1) Receipt of federal and local funding for export development.

(2) Documented results of a direct working partnership with entities specified in subparagraphs (A) to (E), inclusive, of paragraph (2) of subdivision (c) of Section 15365.40. Documented results include, but are not limited to, new export sales by California businesses.

(3) A common system of performance measurement, client tracking, and statewide coordination based on export results.

(4) Local community contribution on a regular basis.

(b) Specify services that designated organizations are expected to carry out, including, but not limited to, the following activities within the intent specified in Section 15365.40:

(1) Operate local public-private service centers.

(2) Identify businesses and assess their preparedness for specific services.

(3) Provide customized services to help businesses utilize and maximize the results of state trade programs.

(4) Operate an electronic trade information system.

(5) Operate a client tracking system, allowing trade service providers to coordinate service delivery to businesses.

(6) Organize regular collaborative meetings of trade service providers to improve statewide service delivery.

(7) Raise funds from multiple public and private sources to leverage state funding, as may become available for the services of an organization.

(c) Designate other qualified organizations as participants.

(d) Review and adjust participation criteria, structure, or performance measures.

(e) Enter into contracts, as deemed appropriate by the agency and as funding is available, to implement this chapter.

(f) Determine a budget needed to implement fully a statewide public-private trade development alliance.

15365.43. (a) The agency may develop an appropriate, ongoing performance reporting system for the organizations, including, but not limited to, the goals expressed in subdivision (c) of Section 15365.40, the activities specified in subdivision (b) of Section 15365.42, and any other data, information, or survey results deemed appropriate by the agency.

(b) The agency may establish appropriate criteria to ensure that organizations are cost effective and efficient.

(c) Performance requirements specified in Section 15365.42 shall apply only to organizations that receive funding from the agency and shall not apply to other organizations.

15365.44. (a) The Trade and Commerce Agency may adopt regulations concerning the implementation of this chapter as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The adoption of these regulations is an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare within the meaning of subdivision (b) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect for more than 360 days unless the agency complies with all provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, as required by subdivision (e) of Section 11346.1.

(b) The agency shall take all steps it deems appropriate and feasible to carry out the intent of this chapter in a timely manner.

15365.45. Notwithstanding Section 7550.5, the Secretary of Trade and Commerce shall report to the Governor and the Legislature on the implementation of this chapter no later than December 31, 2001. The report may be included in the annual report to the Governor and the Legislature required pursuant to subdivision (c) of Section 15363.6.

15365.46. This chapter shall only be implemented to the extent that funds are made available for that purpose.

CHAPTER 566

An act to add Section 190.03 to the Penal Code, relating to murder.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 190.03 is added to the Penal Code, to read:

190.03. (a) A person who commits first-degree murder shall be punished by imprisonment in the state prison for life without the possibility of parole, if the defendant intentionally killed the victim because of the victim's disability, gender, or sexual orientation or because of the defendant's perception of the victim's disability, gender, or sexual orientation.

(b) The term authorized by subdivision (a) shall not apply unless the allegation is charged in the accusatory pleading and admitted by the defendant or found true by the trier of fact. The court shall not strike the allegation, except in the interest of justice, in which case the court shall state its reasons in writing for striking the allegation.

(c) For the purpose of this section, "because of" means the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. This subdivision does not constitute a change in, but is declaratory of, existing law as set forth in In Re M.S. (1995) 10 Cal.4th 698, 716-720 and People v. Superior Court of San Diego County (Aishman) (1995) 10 Cal.4th 735.

(d) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

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.

CHAPTER 567

An act to add Sections 96.27, 96.52, and 97.39 to the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 96.27 is added to the Revenue and Taxation Code, to read:

96.27. Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Santa Clara for the Santa Clara County Central Fire Protection District for each fiscal year from the 1988–89

fiscal year through the 1996–97 fiscal year shall be deemed correct, except to the extent that those apportionment factors reflect any calculation errors made in implementing Article 3 (commencing with Section 97). However, commencing with the 1997–98 fiscal year, property tax apportionment factors applied in allocating property tax revenue in the County of Santa Clara shall be determined on the basis of property tax apportionment factors for prior fiscal years that have been fully corrected or adjusted as would be required in the absence of the preceding sentence.

SEC. 2. Section 96.52 is added to the Revenue and Taxation Code, to read:

96.52. Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Santa Barbara for the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District for the 1993–94 fiscal year through and including the 1996–97 fiscal year shall be deemed correct. However, commencing with the 1997–98 fiscal year, property tax apportionment factors applied in allocating property tax revenue for these fire protection districts in the County of Santa Barbara shall be determined on the basis of apportionment factors for prior fiscal years that have been corrected or adjusted as would be required in the absence of the preceding sentence.

SEC. 3. Section 97.39 is added to the Revenue and Taxation Code, to read:

97.39. (a) Notwithstanding any other provision of law, the amount of each allocation that was made to the Educational Revenue Augmentation Fund of the County of Santa Clara in any fiscal year, up to and including the 1996–97 fiscal year, as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, or the South Santa Clara County Fire District, shall be deemed correct.

(b) No reduction or correction may be made, in response to a calculation error, to an allocation that was made to the Educational Revenue Augmentation Fund of the County of Santa Clara in any fiscal year, up to and including the 1996–97 fiscal year, as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for a County of Santa Clara fire district listed in subdivision (a). However, in the 1997–98 fiscal year and each fiscal year thereafter, each allocation that is made to the Educational Revenue Augmentation Fund of the County of Santa Clara as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for a County of Santa Clara fire district listed in subdivision (a) shall be made in that amount that fully reflects any reduction or correction that would be required to be made to a corresponding allocation in a prior fiscal year in the absence of this section.

SEC. 4. The Legislature finds and declares that special laws are necessary and that general laws cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and retroactive fiscal difficulties and disruptions that will be suffered by the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, the South Santa Clara County Fire District, the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District if this act does not become operative.

CHAPTER 568

An act to add Section 1708.5 to the Public Utilities Code, relating to public utilities and making an appropriation therefor.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. (a) It is the intent of the Legislature that the term "interested persons," as used in subdivision (a) of Section 1708.5 of the Public Utilities Code, be construed broadly, and not as a bar to standing.

(b) It is the further intent of the Legislature that the term "regulation," as used in subdivision (a) of Section 1708.5 of the Public Utilities Code, not be construed to refer to all orders and decisions of the Public Utilities Commission, but, rather, be construed as a general reference to rules of general applicability and future effect. It is the intent of the Legislature that the Public Utilities Commission have the authority to define more precisely the term "regulation" for the purpose of Section 1708.5 of the Public Utilities Code.

(c) It is the further intent of the Legislature that the petitions authorized by Section 1708.5 of the Public Utilities Code are not to be a vehicle for asking the commission to reconsider any or all of its decisions, or for asking the Public Utilities Commission to reconsider recently decided matters where there has been no change in circumstances. Therefore, the Legislature intends that the Public Utilities Commission delegate to its staff the authority to deny petitions, in order to provide for the efficient administration of Section 1708.5 of the Public Utilities Code.

SEC. 2. Section 1708.5 is added to the Public Utilities Code, to read:

1708.5. (a) The commission shall permit interested persons to petition the commission to adopt, amend, or repeal a regulation.

(b) (1) The commission shall consider a petition and, within six months from the date of receipt of the petition, either deny the petition or institute a proceeding to adopt, amend, or repeal the regulation.

(2) The commission may extend the six month period for consideration of a petition pursuant to paragraph (1) to allow public review and comment pursuant to subdivision (g) of Section 311.

(c) If the commission denies a petition, the order or resolution of the commission shall include a statement of the reasons of the commission for that denial.

(d) If the commission finds that it is precluded by law from granting a petition, the statement of reasons for denial pursuant to subdivision (c) shall identify the relevant provisions of law.

(e) The commission shall implement this section under the Rules of Practice and Procedure in effect on January 1, 2000. On or before July 1, 2001, the commission shall amend the Rules of Practice and Procedure to provide more specific procedures for handling a petition pursuant to this section.

(f) Notwithstanding Section 1708, the commission may conduct any proceeding to adopt, amend, or repeal a regulation using notice and comment rulemaking procedures, without an evidentiary hearing, except with respect to a regulation being amended or repealed that was adopted after an evidentiary hearing, in which case the parties to the original proceeding shall retain any right to an evidentiary hearing accorded by Section 1708.

SEC. 3. The sum of one hundred thirty-six thousand three hundred forty-five dollars ($136,345) is hereby appropriated from the Public Utilities Commission Reimbursement Account to the Public Utilities Commission to reimburse the commission for those costs incurred by the commission in implementing this act.

CHAPTER 569

An act to amend Section 667.9 of the Penal Code, relating to criminal enhancements.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 667.9 of the Penal Code is amended to read:

667.9. (a) Any person who commits one or more of the crimes specified in subdivision (c) against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known

or reasonably should be known to the person committing the crime, shall receive a one-year enhancement for each violation.

(b) Any person who commits a violation of subdivision (a) and who has a prior conviction for any of the offenses specified in subdivision (c), shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(c) Subdivisions (a) and (b) apply to the following crimes:

(1) Mayhem, in violation of Section 203 or 205.

(2) Kidnapping, in violation of Section 207, 209, or 209.5.

(3) Robbery, in violation of Section 211.

(4) Carjacking, in violation of Section 215.

(5) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(6) Spousal rape, in violation of paragraph (1) or (4) of subdivision (a) of Section 262.

(7) Rape, spousal rape, or sexual penetration in concert, in violation of Section 264.1.

(8) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(9) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.

(10) Sexual penetration, in violation of subdivision (a) of Section 289.

(11) Burglary of the first degree, as defined in Section 460, in violation of Section 459.

(d) As used in this section, "developmentally disabled" means a severe, chronic disability of a person, which is all of the following:

(1) Attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Likely to continue indefinitely.

(3) Results in substantial functional limitation in three or more of the following areas of life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

SEC. 2. (a) In deleting the reference to Section 667 in subdivision (a) of Section 667.9 of the Penal Code, the Legislature recognizes that subdivision (a) does not require a prior conviction and that the reference to Section 667 is, therefore, surplusage.

(b) In repealing the specific provision in subdivision (d) of Section 667.9 of the Penal Code, it is not the intent of the Legislature to alter the application of the general provision of subdivision (e) of Section 1170.1 of the Penal Code to the enhancements provided in that 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.

CHAPTER 570

An act to amend Sections 1166, 1305, 1305.4, and 1308 of the Penal Code, relating to bail.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 1166 of the Penal Code is amended to read:

1166. If a general verdict is rendered against the defendant, or a special verdict is given, he or she must be remanded, if in custody, or if on bail he or she shall be committed to the proper officer of the county to await the judgment of the court upon the verdict, unless, upon considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety, the court concludes the evidence supports its decision to allow the defendant to remain out on bail. When committed, his or her bail is exonerated, or if money is deposited instead of bail it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant.

SEC. 2. Section 1305 of the Penal Code is amended to read:

1305. (a) A court shall in open court declare forfeited the undertaking of bail or the money or property deposited as bail if, without sufficient excuse, a defendant fails to appear for any of the following:

(1) Arraignment.

(2) Trial.

(3) Judgment.

(4) Any other occasion prior to the pronouncement of judgment if the defendant's presence in court is lawfully required.

(5) To surrender himself or herself in execution of the judgment after appeal.

However, the court shall not have jurisdiction to declare a forfeiture and the bail shall be released of all obligations under the

bond if the case is dismissed or if no complaint is filed within 15 days from the date of arraignment.

(b) If the amount of the bond or money or property deposited exceeds four hundred dollars ($400), the clerk of the court shall, within 30 days of the forfeiture, mail notice of the forfeiture to the surety or the depositor of money posted instead of bail. At the same time, the court shall mail a copy of the forfeiture notice to the bail agent whose name appears on the bond. The clerk shall also execute a certificate of mailing of the forfeiture notice and shall place the certificate in the court's file. If the notice of forfeiture is required to be mailed pursuant to this section, the 180-day period provided for in this section shall be extended by a period of five days to allow for the mailing.

If the surety is an authorized corporate surety, and if the bond plainly displays the mailing address of the corporate surety and the bail agent, then notice of the forfeiture shall be mailed to the surety at that address and to the bail agent, and mailing alone to the surety or the bail agent shall not constitute compliance with this section.

The surety or depositor shall be released of all obligations under the bond if any of the following conditions apply:

(1) The clerk fails to mail the notice of forfeiture in accordance with this section within 30 days after the entry of the forfeiture.

(2) The clerk fails to mail the notice of forfeiture to the surety at the address printed on the bond.

(3) The clerk fails to mail a copy of the notice of forfeiture to the bail agent at the address shown on the bond.

(c) (1) If the defendant appears either voluntarily or in custody after surrender or arrest in court within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice if the notice is required under subdivision (b), the court shall, on its own motion at the time the defendant first appears in court on the case in which the forfeiture was entered, direct the order of forfeiture to be vacated and the bond exonerated. If the court fails to so act on its own motion, then the surety's or depositor's obligations under the bond shall be immediately vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.

(2) If, within the county where the case is located, the defendant is surrendered to custody by the bail or is arrested in the underlying case within the 180-day period, and is subsequently released from custody prior to an appearance in court, the court shall, on its own motion, direct the order of forfeiture to be vacated and the bond exonerated. If the court fails to so act on its own motion, then the surety's or depositor's obligations under the bond shall be immediately vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that

are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.

(3) If, outside the county where the case is located, the defendant is surrendered to custody by the bail or is arrested in the underlying case within the 180-day period, the court shall vacate the forfeiture and exonerate the bail.

(4) In lieu of exonerating the bond, the court may order the bail reinstated and the defendant released on the same bond if both of the following conditions are met:

(A) The bail is given prior notice of the reinstatement.

(B) The bail has not surrendered the defendant.

(d) In the case of a permanent disability, the court shall direct the order of forfeiture to be vacated and the bail or money or property deposited as bail exonerated if, within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice if notice is required under subdivision (b), it is made apparent to the satisfaction of the court that both of the following conditions are met:

(1) The defendant is deceased or otherwise permanently unable to appear in the court due to illness, insanity, or detention by military or civil authorities.

(2) The absence of the defendant is without the connivance of the bail.

(e) In the case of a temporary disability, the court shall order the tolling of the 180-day period provided in this section during the period of temporary disability, provided that it appears to the satisfaction of the court that the following conditions are met:

(1) The defendant is temporarily disabled by reason of illness, insanity, or detention by military or civil authorities.

(2) Based upon the temporary disability, the defendant is unable to appear in court during the remainder of the 180-day period.

(3) The absence of the defendant is without the connivance of the bail.

The period of the tolling shall be extended for a reasonable period of time, at the discretion of the court, after the cessation of the disability to allow for the return of the defendant to the jurisdiction of the court.

(f) In all cases where a defendant is in custody beyond the jurisdiction of the court that ordered the bail forfeited, and the prosecuting agency elects not to seek extradition after being informed of the location of the defendant, the court shall vacate the forfeiture and exonerate the bond on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.

(g) In all cases of forfeiture where a defendant is not in custody and is beyond the jurisdiction of the state, is temporarily detained, by the bail agent, in the presence of a local law enforcement officer of the jurisdiction in which the defendant is located, and is positively identified by that law enforcement officer as the wanted defendant

in an affidavit signed under penalty of perjury, and the prosecuting agency elects not to seek extradition after being informed of the location of the defendant, the court shall vacate the forfeiture and exonerate the bond on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.

(h) As used in this section, "arrest" includes a hold placed on the defendant in the underlying case while he or she is in custody on other charges.

(i) A motion filed in a timely manner within the 180-day period may be heard within 30 days of the expiration of the 180-day period. The court may extend the 30-day period upon a showing of good cause. The motion may be made by the surety insurer, the bail agent, the surety, or the depositor of money or property, any of whom may appear in person or through an attorney. The court, in its discretion, may require that the moving party provide 10 days prior notice to the applicable prosecuting agency, as a condition precedent to granting the motion.

SEC. 3. Section 1305.4 of the Penal Code is amended to read:

1305.4. Notwithstanding Section 1305, the surety insurer, the bail agent, the surety, or the depositor may file a motion, based upon good cause, for an order extending the 180-day period provided in that section. The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The court, upon a hearing and a showing of good cause, may order the period extended to a time not exceeding 180 days from its order. A motion may be filed and calendared as provided in subdivision (i) of Section 1305.

SEC. 4. Section 1308 of the Penal Code is amended to read:

1308. (a) No court or magistrate shall accept any person or corporation as surety on bail if any summary judgment against that person or corporation entered pursuant to Section 1306 remains unpaid after the expiration of 30 days after service of the notice of the entry of the summary judgment, provided that, if during the 30 days an action or proceeding available at law is initiated to determine the validity of the order of forfeiture or summary judgment rendered on it, this section shall be rendered inoperative until that action or proceeding has finally been determined, provided that, if an appeal is taken, an appeal bond is posted in compliance with Section 917.1 of the Code of Civil Procedure.

(b) The clerk of the court in which the judgment is rendered shall serve notice of the entry of judgment upon the judgment debtor within five days after the date of the entry of the summary judgment.

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.

CHAPTER 571

An act to amend Sections 11106, 12025, and 12031 of the Penal Code, relating to firearms.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in

electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

SEC. 1.5. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within

five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the

serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(E) Information provided pursuant to paragraphs (19) and (20) of subdivision (b) of Section 12071.

(F) Information provided pursuant to paragraph (8) of subdivision (d) of Section 12084.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

SEC. 2. Section 12025 of the Penal Code is amended to read:

12025. (a) A person is guilty of carrying a concealed firearm when he or she does any of the following:

(1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) Carrying a concealed firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, as defined in this section, or the person is within a class of persons

prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(5) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(6) By imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment if both of the following conditions are met:

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are either in the immediate possession of the person or readily accessible to that person, or the pistol, revolver, or other firearm capable of being concealed upon the person is loaded as defined in subdivision (g) of Section 12031.

(B) The person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(7) In all cases other than those specified in paragraphs (1) to (6), inclusive, by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (b) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

(d) (1) Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by this chapter, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivision (d), except in unusual cases where the

interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivision (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivision (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(f) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(g) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(h) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

SEC. 3. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) A person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(2) Carrying a loaded firearm in violation of this section is punishable, as follows:

(A) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(B) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(C) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(D) Where the person is not in lawful possession of the firearm, as defined in this section, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or

12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(E) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(F) Where the person is not listed with the Department of Justice pursuant to Section 11106, as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars ($1,000), or both that fine and imprisonment.

(G) In all cases other than those specified in subparagraphs (A) to (F), inclusive, as a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully acquired and lawfully owns the firearm or has the permission of the lawful owner or person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(4) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(5) (A) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(i) When the person arrested has violated this section, although not in the officer's presence.

(ii) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(B) A peace officer may arrest a person for a violation of subparagraph (F) of paragraph (2), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(6) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall

serve a term of at least three months in a county jail, or, if granted probation or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(7) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States Code.

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

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is

authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a loaded firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a loaded firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977, or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal

Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 14502 of the Corporations Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The

certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977, or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

(m) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative only until January 1, 2005.

SEC. 3.5. Section 1.5 of this bill incorporates amendments to Section 11106 of the Penal Code proposed by both this bill and Senate Bill 29. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 11106 of the Penal Code, and (3) this bill is enacted after Senate Bill 29, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 572

An act to add Sections 14529.17, 14529.19, and 14529.23 to the Government Code, relating to transportation.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to streamline and improve the process for allocating and transferring funds to regional and local governmental entities for projects included in the state transportation improvement program.

SEC. 2. Section 14529.17 is added to the Government Code, to read:

14529.17. (a) A regional or local entity that is the sponsor of, or is eligible to receive funding for, a project contained in the state transportation improvement program may expend its own funds for any component of a transportation project within its jurisdiction that is included in an adopted state transportation improvement program and for which the commission has not made an allocation.

(b) The amount expended under subdivision (a) shall be reimbursed by the state, subject to annual appropriation by the Legislature, if all of the following conditions are met:

(1) The commission makes an allocation for, and the department executes an agreement to transfer funds for, the project.

(2) Expenditures made by the regional or local entity are eligible for reimbursement in accordance with state and federal laws and procedures. In the event expenditures made by the regional or local entity are determined to be ineligible, the state has no obligation to reimburse those expenditures.

(3) The regional or local entity complies with all legal requirements for the project, including, but not limited to, authorization by the federal government, if required, Section 14520.3, and the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) Upon the execution of an agreement with the department to transfer reimbursement funds for a project described in subdivision (a), the commission may delay reimbursement pursuant to this section only if programming or cash-management issues prevent immediate repayment.

(d) This section shall be limited to projects advanced for expenditure by an eligible local or regional entity within the 12 months preceding the date the project would otherwise be allocated funding by the commission.

(e) Unless otherwise agreed in advance by the commission and the department, the funds appropriated for the purposes of reimbursement under this section shall be federal funds and state matching funds.

SEC. 3. Section 14529.19 is added to the Government Code, to read:

14529.19. (a) If no deficiencies that require clarification by a local or regional entity are identified in the preaward audit for a local or regional project that is included in an adopted state transportation

improvement program, the department and the local or regional entity shall execute an agreement to transfer funds for the project within 90 days from the date on which the commission approves an allocation for the project.

(b) Notwithstanding Section 7550.5, on July 1, 2000, and annually thereafter, the department shall compile information and report to the Legislature on the number of projects for which an agreement to transfer funds under subdivision (a) was executed and on all projects for which an agreement was not executed within the period provided under subdivision (a) and the reasons therefor. The information provided by the department shall include a description of any actions taken by the department during the prior fiscal year to streamline, expedite, and simplify the department's process for executing the agreements to transfer funds required under subdivision (a).

SEC. 4. Section 14529.23 is added to the Government Code, to read:

14529.23. The department shall implement systems that allow rapid access to funds made available under executed agreements to transfer funds. The Controller shall develop a system that provides access to those funds by electronic transfer of funds. Upon the development of that system by the Controller, the department shall utilize that system to comply with Section 14529.19 to the maximum extent feasible.

CHAPTER 573

An act to amend Section 1 of Chapter 1051 of the Statutes of 1998, relating to job training, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 1 of Chapter 1051 of the Statutes of 1998 is amended to read:

SECTION 1. The sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby appropriated from the General Fund to the Employment Development Department to be allocated and disbursed by the department, as follows:

(a) (1) The sum of five hundred thousand dollars ($500,000) to the administrative entity of the job training Service Delivery Area for the City of Los Angeles to support no more than four at-risk youth employment demonstration projects by private, nonprofit entities.

(2) The sum of one hundred twenty-five thousand dollars ($125,000) to each of the administrative entities of the job training Service Delivery Areas of the City of Oakland, the City and County of San Francisco, the City of Santa Ana, the City and County of Sacramento, the County of Fresno, and the City and County of San Diego, jointly, to support in each of those jurisdictions no more than two at-risk youth employment demonstration projects by private, nonprofit entities.

(b) The funds specified in subdivision (a) shall be expended pursuant to the following guidelines and requirements:

(1) The demonstration projects in those jurisdictions shall be located in areas of chronic youth unemployment. The administrative entities of participating job training service delivery areas shall, in order to implement these projects, contract with private, nonprofit organizations, without regard to relevant service delivery area boundaries, to train at-risk youth for appropriate employment opportunities. However, the recipients of any funds under this subdivision shall be required to satisfy both of the following requirements:

(A) They shall obtain matching funds on a dollar-for-dollar basis from private sources.

(B) They shall be able to demonstrate significant employer involvement in their program with the purpose of implementing a campaign among employers in the targeted area to provide jobs to at-risk youth who have participated in the project.

For purposes of this paragraph, ''at-risk youth'' means persons who are between 16 and 22 years of age, who are considered to be at risk of homelessness, crime, or welfare dependency, and who lack employment skills.

(2) The administrative entities of participating job training service delivery areas or their successors shall ensure that all participants in the at-risk youth demonstration projects are covered by workers' compensation insurance, and that the recipients of any funds under subdivision (a) maintain general liability insurance and automobile insurance, and have practices in place to ensure fiscal accountability.

(3) City and county service delivery areas that participate in demonstration projects under this subdivision shall award projects through a competitive bid process, with priority given to recipients that operate residential facilities that house at-risk youth. In cities and counties with existing youth job training programs, funding recipients shall consult with the local agencies that deliver those programs.

(4) Nonprofit organizations receiving funding under subdivision (a) shall be able to demonstrate that they meet the following criteria in the provision of services:

(A) Quality management.

(i) Presentation of a clear and consistent mission.

(ii) Maintenance of continuity and competence of leadership.

(iii) Incorporation of staff development as a management strategy.

(iv) Leveraging of resources through collaboration and partnerships.

(v) Attraction of diverse funding sources.

(vi) Commitment to a strategy with a goal of continuous improvement.

(B) Youth development.

(i) Nurturing of relationships between youths and caring adults.

(ii) Engaging, as appropriate, family and peers in organized activities.

(iii) Placement of high expectations on youths and staff.

(iv) Processes for building youths' responsibility and leadership skills.

(v) Offering individualized age and stage appropriate activities.

(vi) Development of a sense of group membership.

(vii) Fostering a sense of identity and self.

(viii) Sustaining services over the long term.

(C) Work force development.

(i) Nurturing of career awareness and exploration.

(ii) Provision of career guidance and career planning throughout the program.

(iii) Provision of work-based learning opportunities.

(iv) Provision of experiential learning opportunities.

(v) Ensuring that employers are actively engaged.

(vi) Emphasis on the connection between work and learning.

(vii) Offering postplacement activities.

(D) Evidence of success.

(i) Establishing intermediate and long-term outcomes and measurable indicators.

(ii) Collecting and maintaining data that can be used for management decisionmaking.

(iii) Using data to assess progress and evaluate effectiveness.

(iv) Sharing information with stakeholders.

(5) Recipients of funding under this subdivision may use those funds to support one or more of the following employment-related activities:

(A) Preemployment services.

(B) Educational or vocational assessment.

(C) Intensive basic skills development programs for reading, writing, and mathematics, that include an employment assistance component.

(D) Temporary labor programs.

(E) Training internships with employers.

(F) Supervised job search and job development services.

(G) Employment retention services.

(6) The unit of general local government or each unit of general local government that is described in subparagraph (A), and which is represented by the chief local elected official described in subsection (c) of Section 103 of the federal Job Training Partnership Act (29 U.S.C. Sec. 1513 (c)), shall be liable to the department for all funds distributed pursuant to this subdivision that are not expended in accordance with this subdivision.

(7) City and county service delivery areas or their successors that participate in demonstration projects under this section shall not expend more than 15 percent of funds allocated to them for administrative expenses.

(8) The department shall submit a report to the Legislature and to the Governor, on or before January 1, 2003, detailing all of the following with respect to demonstration projects funded under this subdivision:

(A) The amount and source of required matching funds from private sources.

(B) The successful completion rates by project component.

(C) The extent to which the criteria specified in paragraph (4) were achieved.

(D) The number of participants who remained or returned to school part-time or full-time for at least one semester.

(E) The number of participants who were placed in part-time or full-time employment lasting at least three months.

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

In order to implement, at the earliest possible time, certain at-risk youth employment demonstration projects, which were funded pursuant to an augmentation of the Budget Act of 1998, it is necessary that this act go into immediate effect.

CHAPTER 574

An act relating to the payment of claims against the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. The sum of one hundred forty-nine million forty-one thousand one hundred and thirty-six dollars ($149,041,136) is hereby appropriated from the General Fund, where a fund is not

otherwise specified, and the State Transportation Fund, where specified, to the Controller for allocation as follows:

(a) Fourteen million three hundred thousand dollars ($14,300,000) for the payment of claims from counties, cities, cities and counties, or other public agencies or corporations pursuant to subdivisions (a), (b), and (e) of Section 53646 of the Government Code, as added and amended by Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996 (Investments Reports), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(b) One million thirty-nine thousand dollars ($1,039,000) for the payment of claims from school districts, as defined in Section 17519 of the Government Code, and pursuant to subdivisions (a), (b), and (e) of Section 53646 of the Government Code, as added and amended by Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996 (Investment Reports), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, eight hundred twenty-one thousand dollars ($821,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, two hundred eighteen thousand dollars ($218,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(c) Sixteen million one hundred eighty-two thousand dollars ($16,182,000) for the payment of claims from school districts, except for community college districts, pursuant to Sections 48262 and 48264.5 of the Education Code, as added and amended by Chapter 1184 of the Statutes of 1975 and Chapter 1023 of the Statutes of 1994 (Habitual Truant), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, twelve million seven hundred forty-two thousand dollars ($12,742,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, three million four hundred forty thousand dollars ($3,440,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(d) Two million nine hundred seventy-three thousand dollars ($2,973,000) for the payment of claims from school districts, except for community college districts, pursuant to Sections 48213 and 48214 of the Education Code, as added by Chapter 668 of the Statutes of 1978 (Pupil Exclusions), for costs incurred from July 1, 1993, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, two million four hundred sixty-eight thousand dollars ($2,468,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, five hundred five thousand dollars ($505,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(e) Five million four hundred thousand dollars ($5,400,000) for the payment of claims from school districts, except for community college districts, pursuant to subdivisions (b) and (e) of Section 48911 of the Education Code, as added and amended by Chapter 965 of the Statutes of 1977, Chapter 668 of the Statutes of 1978, Chapter 73 of the Statutes of 1980, Chapter 498 of the Statutes of 1983, Chapter 856 of the Statutes of 1985, and Chapter 134 of the Statutes of 1987 (Pupil Suspensions), for costs incurred from July 1, 1993, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, four million four hundred five thousand dollars ($4,405,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, nine hundred ninety-five thousand dollars ($995,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(f) Twenty-five million eight hundred sixty-one thousand dollars ($25,861,000) for the payment of claims from local law enforcement agencies of any city, county, or city and county, pursuant to Section 13701 of the Penal Code, as added by Chapter 246 of the Statutes of 1995 (Domestic Violence Arrest Policies and Standards), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(g) Eight hundred ninety-five thousand dollars ($895,000) for the payment of claims from school districts, except for community college districts, pursuant to Section 3547.5 of the Government Code, as added by Chapter 1213 of the Statutes of 1991 (Collective Bargaining Agreement Disclosure), for costs incurred from July 1, 1996, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, six hundred thirty-one thousand dollars ($631,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, two hundred sixty-four thousand dollars ($264,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(h) Five million seven hundred thirteen thousand dollars ($5,713,000) for the payment of claims from school districts, except for community college districts, pursuant to Sections 33126, 35256, 35256.1, 35258, 41409, and 41409.3 of the Education Code, as added and amended by Chapter 1463 of the Statutes of 1989, Chapter 759 of the Statutes of 1992, Chapter 1031 of the Statutes of 1993, Chapter 824 of the Statutes of 1994, and Chapters 912 and 918 of the Statutes of 1997 (School Accountability Report Cards), for costs incurred from July 1, 1996, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, four million eighty-one thousand dollars ($4,081,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, one million six hundred thirty-two thousand dollars ($1,632,000) of the amount appropriated by this subdivision 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 1999–2000 fiscal year, and included within the total allocations to schools districts and community college districts from the General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California

Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(i) Fourteen million six hundred eighty-five thousand dollars ($14,685,000) for the payment of claims from any county, pursuant to Sections 6250 and 6600 through 6608 of the Welfare and Institutions Code, as added by Chapters 762 and 763 of the Statutes of 1995 (Sexually Violent Predators), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(j) Four million four hundred seventeen thousand dollars ($4,417,000) for the payment of claims from school districts, except for community college districts, pursuant to Section 60800 of the Education Code, as added by Chapter 975 of the Statutes of 1995 and the California Department of Education Memorandum dated February 16, 1996 (Physical Performance Tests), for costs incurred from July 1, 1995, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, three million four hundred twenty-six thousand dollars ($3,426,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, nine hundred ninety-one thousand dollars ($991,000) of the amount appropriated by this subdivision 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 1999–2000 fiscal year, and included within the total allocations to schools districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(k) One million one hundred eighty-four thousand dollars ($1,184,000) for the payment of claims from school districts, except for community college districts, pursuant to subdivision (d) of Section 48204 of the Education Code and Sections 6550 and 6552 of the Family Code, as added by Chapter 98 of the Statutes of 1994 (Caregiver Affidavits), for costs incurred from July 1, 1994, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, nine hundred fifty-seven thousand dollars ($957,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, two hundred twenty-seven thousand dollars ($227,000) of the amount appropriated by this subdivision 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 1999–2000 fiscal year, and included within the total allocations to school districts and community college districts from the General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California

Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(*l*) Thirteen million four hundred forty thousand dollars ($13,440,000) for the payment of claims from school districts, except for community college districts, pursuant to subdivisions (a) and (b) of Section 48915 and Sections 48915.1, 48915.2, 48916, and 48918 of the Education Code, as added and amended by Chapter 1253 of the Statutes of 1975, Chapter 965 of the Statutes of 1977, Chapter 668 of the Statutes of 1978, Chapter 318 of the Statutes of 1982, Chapter 498 of the Statutes of 1983, Chapter 622 of the Statutes of 1984, Chapter 942 of the Statutes of 1987, Chapter 1231 of the Statutes of 1990, Chapter 152 of the Statutes of 1992, Chapters 1255, 1256, and 1257 of the Statutes of 1993, and Chapter 146 of the Statutes of 1994, and Sections 48921 through 48924 of the Education Code, as added and amended by Chapter 1253 of the Statutes of 1975, Chapter 965 of the Statutes of 1977, Chapter 688 of the Statutes of 1978, and Chapter 498 of the Statutes of 1983 (Pupil Expulsions from School/Pupil Expulsion Appeals), for costs incurred from July 1, 1993, to June 30, 2000, inclusive.

(1) Of the amount appropriated in this subdivision, eleven million seventy-seven thousand dollars ($11,077,000) shall be appropriated from the Proposition 98 Reversion Account.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, two million three hundred sixty-three thousand dollars ($2,363,000) of the amount appropriated by this subdivision 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 1999–2000 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 of the California Constitution and as defined in subdivision (e) of Section 41202 of the Education Code, for the 1999–2000 fiscal year.

(m) Five million dollars ($5,000,000) for reimbursement to local agencies for costs incurred from July 1, 1998, to August 20, 1998, inclusive, for those state-mandated programs that were not suspended pursuant to Section 17581 of the Government Code for this time period.

(n) Thirty-seven million three hundred eighty-five thousand one hundred thirty-six dollars ($37,385,136) for the payment of deficiencies in prior year appropriations, which includes payment for interest on those deficiencies, incurred through June 30, 1999, pursuant to Section 17561.6 of the Government Code, as detailed in the Controller's letter to the Department of Finance dated May 5, 1999.

(o) Five hundred sixty-seven thousand dollars ($567,000) from the State Highway Account in the State Transportation Fund for the payment of claims from any city or county, pursuant to Section 21401

of the Vehicle Code, as added by Chapter 1297 of the Statutes of 1994 (Two-Way Traffic Signal Communication), for costs incurred from January 1, 1995, to June 30, 2000, inclusive.

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

In order to settle claims by school districts and local government agencies against the state for mandated costs associated with implementing designated provisions of law, and to end hardship to those school districts and local government agencies, it is necessary for this act to take effect immediately.

CHAPTER 575

An act relating to the California Unity Center, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the California Arts Council for local assistance to be allocated to the City of Sacramento for the purposes of assisting the city in the planning and development of a California Unity Center in Sacramento.

The City of Sacramento may only receive funding pursuant to this section in an amount equal to matching funds that the city demonstrates that it has obtained from another source on a dollar-for-dollar basis.

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 funds may be appropriated to facilitate the planning and development of a California Unity Center in Sacramento at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 576

An act to amend Sections 290, 290.5, and 4852.03 of the Penal Code, relating to sex offender registration.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 all 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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs (5) and (7), 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who 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) Except as otherwise provided in paragraph (5), and 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 subparagraph (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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 5 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.1. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county,

or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The

registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 all 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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs (5) and (7), 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (C) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 5 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized

pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.2. 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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs 5 and 7, 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.3. 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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 all 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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent

banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 5 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more

than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.4. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in

accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any

proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs 5 and 7, 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a

misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 5 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county,

or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The

registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 all 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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 5 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the

Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.6. 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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the

person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an

employee of a law enforcement agency shall be immune from civil liability.

(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. 1.7. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's

change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs 5 and 7, any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those

subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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 290.5 of the Penal Code is amended to read:

290.5. (a) A person required to register under Section 290 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and, except persons described in paragraph (1) of subdivision (a) of Section 290.4, upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under Section 290 if not in custody, on parole, or on probation. This certificate shall not relieve persons described in paragraph (1) of subdivision (a) of Section 290.4 of the duty to register under Section 290 and shall not relieve a petitioner of the duty to register under Section 290 for any offense subject to that section of which he or she is convicted in the future.

(b) (1) Except as provided in paragraphs (2) and (3), a person described in paragraph (1) of subdivision (a) of Section 290.4 shall not be relieved of the duty to register until that person has obtained a full pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3.

(2) This subdivision does not apply to misdemeanor violations of Section 647.6.

(3) The court, upon granting a petition for a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, if the petition was granted prior to January 1, 1998, may relieve a person of the duty to register under Section 290 for a violation of Section 288 or 288.5, provided that the person was granted probation pursuant to subdivision (c) of Section 1203.066, has complied with the provisions of Section 290 for a continuous period of at least 10 years immediately preceding the filing of the petition, and has not been convicted of a felony during that period.

SEC. 3. Section 4852.03 of the Penal Code is amended to read:

4852.03. (a) The period of rehabilitation shall begin to run upon the discharge of the petitioner from custody due to his or her completion of the term to which he or she was sentenced or upon his

or her release on parole or probation, whichever is sooner. For purposes of this chapter, the period of rehabilitation shall constitute five years' residence in this state, plus a period of time determined by the following rules:

(1) To the five years there shall be added four years in the case of any person convicted of violating Section 187, 209, 219, 4500 or 12310 of this code, or subdivision (a) of Section 1672 of the Military and Veterans Code, or of committing any other offense which carries a life sentence.

(2) To the five years there shall be added five years in the case of any person convicted of committing any offense or attempted offense for which sex offender registration is required pursuant to Section 290, except for convictions for violations of subdivision (b), (c), or (d) of Section 311.2, or of Section 311.3, 311.10, or 314. For those convictions, two years shall be added to the five years imposed by this section.

(3) To the five years there shall be added two years in the case of any person convicted of committing any offense that is not listed in paragraph (1) or paragraph (2) and that does not carry a life sentence.

(4) The trial court hearing the application for the certificate of rehabilitation may, if the defendant was ordered to serve consecutive sentences, order that his or her statutory period of rehabilitation be extended for an additional period of time which when combined with the time already served will not exceed the period prescribed by statute for the sum of the maximum penalties for all the crimes.

(5) Any person who was discharged after completion of his or her term or was released on parole before May 13, 1943, is not subject to the periods of rehabilitation set forth in these rules.

(b) Unless and until the period of rehabilitation, as stipulated in this section, has passed, the petitioner shall be ineligible to file his or her petition for a certificate of rehabilitation with the court. Any certificate of rehabilitation that is issued and under which the petitioner has not fulfilled the requirements of this chapter shall be void.

(c) A change of residence within this state does not interrupt the period of rehabilitation prescribed by this section.

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1340. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 341 and 1275 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1340, 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 of the Penal Code proposed by both this bill and SB 1275. It shall only become operative if (1) both bills are enacted and become effective

on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 341 and AB 1340 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1275, in which case 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 of the Penal Code proposed by both this bill and SB 341. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 1275 and AB 1340 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 341, 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 of the Penal Code proposed by this bill, SB 1275, and AB 1340. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 341 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1275 and AB 1340, in which case 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 of the Penal Code proposed by this bill, SB 341, and AB 1340. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 1275 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 341 and AB 1340, 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 of the Penal Code proposed by this bill, SB 341, and SB 1275. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) AB 1340 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 341 and SB 1275, in which case 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 of the Penal Code proposed by this bill, SB 341, SB 1275, AB 1193, and AB 1340. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 2000, (2) all four bills amend Section 290 of the Penal Code, and (3) this bill is enacted after those other three bills, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 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 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.

CHAPTER 577

An act to amend Section 91007 of the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 91007 of the Government Code is amended to read:

91007. (a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether he or she intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date

of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice, or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

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 adjust the procedures for the filing of civil actions under the Political Reform Act of 1974, and thereby allow for more efficient and effective administration of the act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 578

An act to amend Section 8103 of the Welfare and Institutions Code, relating to firearms, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result

of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who

knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (5), found that the People of the State of California have not met their burden pursuant to paragraph (6).

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the superior court unless the person states that he or she will submit the form to the superior court.

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition in this section on the ownership, control, receipt, possession or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) Where the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(9) Nothing in this subdivision shall prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be

disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

SEC. 2. The provisions of this bill shall not go into effect until 30 days after the Department of Justice provides to the designated facilities, forms prescribed in paragraphs (2) and (3) of subdivision (f) of Section 8103 of the Welfare and Institutions 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 protect the public safety by ensuring that firearms are kept out of the hands of mentally and emotionally disturbed persons, it is necessary that this act take effect immediately.

CHAPTER 579

An act to amend Sections 14205 and 14206 of the Penal Code, relating to reports of missing persons.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 14205 of the Penal Code is amended to read:

14205. (a) All local police and sheriffs' departments shall accept any report, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property. In cases where the person making a report of a missing person or runaway, contacts, including by telephone, the California Highway Patrol, the California Highway Patrol may take the report, and shall immediately advise the person making the report of the name and telephone number of the police or sheriff's department having jurisdiction of the residence address of the missing person and of the name and telephone number of the police or sheriff's department having jurisdiction of the place where the person was last seen. In cases of reports involving missing persons, including, but not limited to, runaways, the local police or sheriff's department shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person. If the missing person is under 16 years of age, or there is evidence that the person is at risk, the department shall broadcast a "Be On the Look-Out" bulletin, without delay, within its jurisdiction.

(b) If the person reported missing is under 16 years of age, or if there is evidence that the person is at risk, the local police, sheriff's department, or the California Highway Patrol shall submit the report to the Attorney General's office within four hours after accepting the report. After the California Law Enforcement Telecommunications System online missing person registry becomes operational, the reports shall be submitted, within four hours after accepting the report, to the Attorney General's office through the use of the California Telecommunications System.

(c) In cases where the report is taken by a department, other than that of the city or county of residence of the missing person or runaway, the department, or division of the California Highway Patrol taking the report shall, without delay, and, in the case of children under 16 years of age or where there was evidence that the missing person was at risk, within no more than 24 hours, notify, and forward a copy of the report to the police or sheriff's department or departments having jurisdiction of the residence address of the missing person or runaway and of the place where the person was last seen. The report shall also be submitted by the department or division of the California Highway Patrol which took the report to the center.

(d) The requirements imposed by this section on local police and sheriff's departments shall not be operative if the governing body of that local agency, by a majority vote of the members of that body, adopts a resolution expressly making those requirements inoperative.

SEC. 2. Section 14206 of the Penal Code is amended to read:

14206. (a) (1) When any person makes a report of a missing person to a police department, sheriff's department, district attorney's office, California Highway Patrol, or other law enforcement agency, the report shall be given in person or by mail in a format acceptable to the Attorney General. That form shall include a statement authorizing the release of the dental or skeletal X-rays, or both, of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under 18 years of age. Included with the form shall be instructions which state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person shall be taken by the family member or next of kin to the dentist, physician and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, of that person or may be taken by a peace officer, if others fail to take action, to secure those X-rays. Notwithstanding any other provision of law, dental or skeletal X-rays, or both, shall be released by the dentist, physician and surgeon, or medical facility to the person presenting the request and shall be submitted within 10 days by that person to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation. When the person reported missing has not been found within 30 days and no family or next of kin exists or can be located, the law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal X-rays, or both, are necessary for the exclusive purpose of furthering the investigation. Notwithstanding any other provision of law, the written declaration, signed by a peace officer, is sufficient authority for the dentist,

physician and surgeon, or medical facility to release the missing person's dental or skeletal X-rays, or both.

(2) The form provided under this subdivision shall also state that if the person reported missing is under 18 years of age, the completed form shall be taken to the dentist, physician and surgeon, or medical facility immediately when the law enforcement agency determines that the disappearance involves evidence that the person is at risk or when the law enforcement agency determines that the person missing is under 16 years of age and has been missing at least 14 days. The form shall further provide that the dental or skeletal X-rays, or both, and a recent photograph of the missing child shall be submitted immediately to the law enforcement agency. Whenever authorized under this subdivision to execute a written declaration to obtain the release of dental or skeletal X-rays, or both, is provided, the investigating law enforcement agency may obtain those X-rays when a person reported missing is under 18 years of age and the law enforcement agency determines that the disappearance involves evidence that the person is at risk. In each case, the law enforcement agency may confer immediately with the coroner or medical examiners and may submit its report including the dental or skeletal X-rays, or both, within 24 hours thereafter to the Attorney General. The Attorney General's office shall code and enter the dental or skeletal X-rays, or both, into the center.

(b) When a person reported missing has not been found within 45 days, the sheriff, chief of police, or other law enforcement agency conducting the investigation for the missing person may confer with the coroner or medical examiner prior to the preparation of a missing person report. The coroner or medical examiner shall cooperate with the law enforcement agency. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement agency initiating and conducting the investigation for the missing person may submit a missing person report and the dental or skeletal X-rays, or both, and photograph received pursuant to subdivision (a) to the Attorney General's office in a format acceptable to the Attorney General.

(c) Nothing in this section prohibits a parent or guardian of a child, reported to a law enforcement agency as missing, from voluntarily submitting fingerprints, and other documents, to the law enforcement agency accepting the report for inclusion in the report which is submitted to the Attorney General.

(d) The requirements imposed by this section on local police and sheriff's departments shall not be operative if the governing body of that local agency, by a majority vote of the members of that body, adopts a resolution expressly making those requirements inoperative.

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CHAPTER 580

An act to amend Section 1050 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary and (2) within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify the people's witnesses and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of

service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) (1) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(2) For purposes of this section, "good cause" includes, but is not limited to, those cases involving murder, as defined in subdivision (a) of Section 187, allegations that stalking, as defined in Section 646.9, a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined in Section 13700, has occurred and the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days.

(3) Only one continuance per case may be granted to the people under this subdivision for cases involving stalking. Any continuance granted to the people in a case involving stalking shall be for the shortest time possible, not to exceed 10 court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court on an indictment or information is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chair of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

SEC. 2. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary and (2) within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall

notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify the people's witnesses and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) (1) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(2) For purposes of this section, "good cause" includes, but is not limited to, those cases involving murder, as defined in subdivision (a)

of Section 187, allegations that stalking, as defined in Section 646.9, a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined in Section 13700, or a case being handled in the Career Criminal Prosecution Program pursuant to Sections 999b through 999h, has occurred and the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days.

(3) Only one continuance per case may be granted to the people under this subdivision for cases involving stalking or cases handled under the Career Criminal Prosecution Program. Any continuance granted to the people in a case involving stalking or handled under the Career Prosecution Program shall be for the shortest time possible, not to exceed 10 court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court on an indictment or information is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chair of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1050 of the Penal Code proposed by both this bill and AB 501. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 1050 of the Penal Code, and (3) this bill is enacted after AB 501, in which case Section 1 of this bill shall not become operative.

CHAPTER 581

An act to amend Sections 25305, 25308.5, 25309, 25520, 25523, 25524, 25525, 25540.6, and 25541 of, and to add Sections 25009, 25309.3, and 25543 to, and to repeal Section 25523.5 of, and to repeal and add Section 25541.5 of, the Public Resources Code, relating to energy.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 25009 is added to the Public Resources Code, to read:

25009. The Legislature finds and declares that Chapter 854 of the Statutes of 1996 restructured the California electricity industry and created a competitive electricity generation market. In a competitive generation market, the recovery by powerplant owners of their private investment and operating costs is at risk and no longer guaranteed through regulated rates. Before the California electricity industry was restructured, the regulated cost recovery framework for powerplants justified requiring the commission to determine the need for new generation, and site only powerplants for which need was established. Now that powerplant owners are at risk to recover their investments, it is no longer appropriate to make this determination. It is necessary that California both protect environmental quality and site new powerplants to ensure electricity reliability, improve the environmental performance of the current electricity industry and reduce consumer costs. The success of California's restructured electricity industry depends upon the willingness of private capital to invest in new powerplants. Therefore, it is necessary to modify the need for determination requirements of the state's powerplant siting and licensing process to reflect the economics of the restructured electricity industry and ensure the timely construction of new electricity generation capacity.

SEC. 2. Section 25305 of the Public Resources Code is amended to read:

25305. Within nine months after receipt of the reports specified in Section 25300, the commission shall prepare and distribute a draft electricity report, setting forth its findings and conclusions regarding the electric utilities' forecasts. The report shall be based upon information and views presented in the comments received under Section 25303 and the commission's independent analysis, and shall contain all of the following:

(a) The commission's evaluation of the probable service area and statewide, environmental, and economic impact and the health and safety aspect of constructing and operating the facilities proposed by

the electric utilities and a description of the measures considered necessary by the commission to avoid or ameliorate any adverse impacts.

(b) Discussion of reasonable alternative technologies to those proposed by the electrical utilities for consideration pursuant to Section 25604.

(c) After consideration of the utility reports, public and agency comments, and forecasts prepared by the commission staff, the commission's 5- and 12-year forecasts of demand for electrical energy and capacity. Conservation, load management, or other demand-reducing measures reasonably expected to occur shall be explicitly taken into account only in the determinations made pursuant to this subdivision, and shall not be considered as alternatives to a proposed facility during the siting process specified in Chapter 6 (commencing with Section 25500).

(d) An analysis and evaluation of the means by which the projected annual rate of demand growth of electrical energy may be reduced, together with an estimate of the amount of the reduction to be obtained by each of the means analyzed and evaluated, including a statement of the impact of the reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a).

(e) A statement of the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecast or assessment period which, in the judgment of the commission, will reasonably balance requirements of state and service area growth and development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and resources reasonably expected to occur.

(f) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to subdivision (e).

(g) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies in all of the following categories:

(1) Demand-reducing policies.

(2) Conservation of energy.

(3) Development of potential sources of energy.

(4) Other policies and actions designed to affect the rate of growth in demand for electrical energy.

(h) A list, including maps, of existing electrical power generating sites, indicating those where the commission has determined that expansion is feasible within the forthcoming 12-year period.

(i) A list, including maps, of possible areas appropriate for additional electrical generating sites, including the generating

capacity to be installed at the sites and the type of fuel and other general characteristics of the facilities which, as determined by the commission, will be required to meet the 12-year level of electrical energy demand established by the commission pursuant to subdivision (a).

(j) A list, including maps of sites and potential multiple-facility sites which have been found to be acceptable by the commission pursuant to Sections 25516 and 25516.5, including the generating capacity to be installed at each site and the type of fuel and other general characteristics of the facilities at each site.

SEC. 3. Section 25308.5 of the Public Resources Code is amended to read:

25308.5. In issuing the final electricity report, the commission shall describe how the hearing record supports its policy decisions.

SEC. 4. Section 25309 of the Public Resources Code is amended to read:

25309. Beginning May 1, 1985, and every two years thereafter, notwithstanding Section 7550.5 of the Government Code, the commission shall transmit to the Governor and the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and public health and safety factors, and to provide the basis for state policy and actions in relation thereto, including, but not limited to, approval of new sites for additional facilities. The report shall include, but not be limited to, all of the following:

(a) An overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for energy, including patterns of urban metropolitan expansion, statewide and service area economic growth, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the commission, will significantly affect energy consumption and need to be considered in formulating state energy policy and programs.

(b) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies.

(c) Based upon the commission's 20-year forecasts or assessment of growth trends in energy consumption and production, identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including, but not limited to, the costs of electricity and other forms of energy to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas.

(d) Assessment of the energy resources available to the state, including, among others, fossil fuels and nuclear, solar, geothermal, cogeneration, and purchased power resources and power pooling;

assessment of the potential of, and examination of the availability of, commercially developable fuels, including imported fuels, during the forthcoming 12- and 20-year periods; and recommendations regarding measures to be applied to conserve energy and fuels.

(e) An analysis and evaluation of the means by which the projected annual rate of demand growth of energy may be reduced, together with an estimate of the amount of the reduction to be obtained by policies and programs evaluated pursuant to Section 25401.1.

(f) An indication of those technologies which merit continued consideration or support in the commission's long range assessment efforts and its research and development program. The report shall also indicate those electrical generation and nongeneration technologies which have been found to be commercially available or reasonably expected to become available pursuant to Section 25604.

(g) A description of the commission's responsibilities and recommendations for emergency measures to be applied in the event of impending serious shortage of electrical and other forms of energy as provided in Chapter 8 (commencing with Section 25700) and evaluated under subdivision (b) of Section 25358.

(h) Recommendations to the Governor and the Legislature for administrative and legislative actions based on the results of commission studies and evaluations.

SEC. 5. Section 25309.3 is added to the Public Resources Code, to read:

25309.3. (a) It is the intent of the Legislature to change the energy reporting and forecasting responsibilities of the commission to meet the information needs of the public and the policy development needs of the Governor and the Legislature in the restructured electricity market.

(b) Notwithstanding Section 7550.5 of the Government Code, the commission shall prepare a report to the Governor and Legislature on or before March 31, 2000, that contains all of the following:

(1) Recommendations for consolidating and clarifying the reporting obligations contained in Sections 25300 to 25310.4, inclusive, and revising the authority of the commission to collect data from private parties. The recommendations shall include a discussion of public information and policy development objectives; the relationship between these objectives, proposed reporting requirements, and specific data needs; and the costs and benefits of obtaining data through alternate means, including imposing requirements on private parties, collecting data from public sources, including, but not limited to, filings with other government agencies, and purchasing data from private data collection services.

(2) A work plan for completing the reporting obligations contained in subdivision (c) by July 1, 2001, including a description of the data and the sources of the data the commission proposes to rely upon, the scope of the commission's proposed report, a schedule

of public workshops or hearings to solicit public input on the draft report or intermediate work products, and recommended budget changes.

(c) Notwithstanding Section 7550.5 of the Government Code, commencing July 1, 2001, and every two years thereafter, the commission shall submit a report to the Governor and Legislature, developed in consultation with the State Air Resources Board and other appropriate agencies. The report shall contain all of the following:

(1) An assessment of the current status and historic trends in the environmental performance of the electric generation facilities of the state, to include all of the following:

(A) Generation facility efficiency.

(B) Air emission control technologies in use in operating plants.

(C) The extent to which expected or recent resource additions are likely to displace or reduce the operation of existing facilities, including the environmental consequences of these changes.

(2) An assessment of the geographic distribution of statewide environmental, efficiency, and socioeconomic benefits and drawbacks of existing generation facilities, including, but not limited to the impacts on natural resources including wildlife habitat, air quality, and water resources, and the relationship to demographic factors. The assessment shall describe the socioeconomic and demographic factors that existed when the facilities were constructed and the current status of these factors. In addition, the report shall include how expected or recent resource additions could change the assessment through displacement or reduced operation of existing facilities.

(3) Commencing with the report due on or before July 1, 2003, the commission shall include an assessment of the extent to which the displacement or reduced operation of existing facilities has occurred.

(d) The commission shall comply with the requirements of Section 25543 in addition to the requirements of this section and shall utilize existing commission resources.

SEC. 6. Section 25520 of the Public Resources Code is amended to read:

25520. The application shall contain all of the following information and any other information that the commission by regulation may require:

(a) A detailed description of the design, construction, and operation of the proposed facility.

(b) Safety and reliability information, including, in addition to documentation previously provided pursuant to Section 25511, planned provisions for emergency operations and shutdowns.

(c) Available site information, including maps and descriptions of present and proposed development and, as appropriate, geological, aesthetic, ecological, seismic, water supply, population, and load center data, and justification for the particular site proposed.

(d) Any other information relating to the design, operation, and siting of the facility that the commission may specify.

(e) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatthour.

(f) A description of any electric transmission lines, including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; justification for the route, and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic, and recreational values.

SEC. 7. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state,

local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission shall not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant prior to the commission's licensing of the project, to the extent that the proposed facility requires emission offsets to comply with local, regional, state, or federal air quality standards.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) In the case of a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life.

(g) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(h) In the case of a facility, other than a resource recovery facility subject to subdivision (g), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

SEC. 8. Section 25523.5 of the Public Resources Code is repealed.

SEC. 9. Section 25524 of the Public Resources Code is amended to read:

25524. The commission shall not certify any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.

SEC. 10. Section 25525 of the Public Resources Code is amended to read:

25525. The commission shall not certify any facility contained in the application when it finds, pursuant to subdivision (b) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that such facility is required for public convenience and necessity and that there are not more prudent and

feasible means of achieving such public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. In no event shall the commission make any finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.

SEC. 11. Section 25540.6 of the Public Resources Code is amended to read:

25540.6. (a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a solar thermal powerplant.

(2) A modification of an existing facility.

(3) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(4) A thermal powerplant with a generating capacity of up to 100 megawatts.

(5) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

SEC. 12. Section 25541 of the Public Resources Code is amended to read:

25541. The commission may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, if the commission finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

SEC. 13. Section 25541.5 of the Public Resources Code is repealed.

SEC. 14. Section 25541.5 is added to the Public Resources Code, to read:

25541.5. (a) On or before January 1, 2001, the Secretary of the Resources Agency shall review the regulatory program conducted pursuant to this chapter that was certified pursuant to subdivision (k) of Section 15251 of Title 14 of the California Code of Regulations, to determine whether the regulatory program meets the criteria specified in Section 21080.5. If the Secretary of the Resources Agency determines that the regulatory program meets those criteria, the secretary shall continue the certification of the regulatory program.

(b) If the Secretary of the Resources Agency continues the certification of the regulatory program, the commission shall amend the regulatory program from time to time, as necessary to permit the secretary to continue to certify the program.

(c) This section does not invalidate the certification of the regulatory program, as it existed on January 1, 2000, pending the review required by subdivision (a).

SEC. 15. Section 25543 is added to the Public Resources Code, to read:

25543. (a) It is the intent of the Legislature to improve the process of siting and licensing new thermal electric powerplants to ensure that these facilities can be sited in a timely manner, while protecting environmental quality and public participation in the siting process.

(b) Notwithstanding Section 7550.5 of the Government Code, the commission shall prepare a report to the Governor and the Legislature on or before March 31, 2000, that identifies administrative and statutory measures that, preserving environmental protections and public participation, would improve the commission's siting and licensing process for thermal powerplants of 50 megawatts and larger. The report shall include, but is not limited to, all of the following:

(1) An examination of potential process efficiencies associated with required hearings, site visits, and documents.

(2) A review of the impacts on both process efficiency and public participation of restrictions on communications between applicants, the public, and staff or decisionmakers.

(3) An assessment of means for improving coordination with the licensing activities of local jurisdictions and participation by other state agencies.

(4) An assessment of organizational structure issues including the adequacy of the amounts and organization of current technical and legal resources.

(5) Recommendations for administrative and statutory measures to improve the siting and licensing process.

(c) The commission may immediately implement any administrative recommendations. Regulations, as identified in paragraph (5), adopted within 180 days of the effective date of this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code. For purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

CHAPTER 582

An act to amend Section 4612 of, to amend, repeal, and add Section 4554.5 to, and to add Sections 4601.1, 4601.2, 4601.3, 4601.4, and 4601.5 to, the Public Resources Code, relating to forest resources.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

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

SECTION 1. Section 4554.5 of the Public Resources Code is amended to read:

4554.5. (a) Notwithstanding Section 11343.4 of the Government Code, except as specified in subdivision (b), rules and regulations adopted or revised pursuant to this chapter shall become effective on either the next January 1 or July 1 that is not less than 30 days from the date of approval of those rules or regulations by the Office of Administrative Law. Notwithstanding Section 4583, regulations that become effective on July 1 pursuant to this subdivision shall apply only to timber operations conducted pursuant to timber harvesting plans that are approved after the operative date of those regulations.

(b) Notwithstanding subdivision (a), if the board adopts emergency regulations pursuant to Section 4555, and subsequently adopts those emergency regulations as nonemergency rules or regulations pursuant to this chapter, the rules or regulations shall become effective 30 days from the date of approval of the rules or regulations by the Office of Administrative Law.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 1.5. Section 4554.5 is added to the Public Resources Code, to read:

4554.5. (a) Notwithstanding Section 11343.4 of the Government Code, except as specified in subdivision (b), rules and regulations adopted or revised pursuant to this chapter shall become effective on the next January 1 that is not less than 30 days from the date of approval of those rules or regulations by the Office of Administrative Law.

(b) Notwithstanding subdivision (a), if the board adopts emergency regulations pursuant to Section 4555, and subsequently adopts those emergency regulations as nonemergency rules or regulations pursuant to this chapter, the rules or regulations shall become effective 30 days from the date of approval of the rules or regulations by the Office of Administrative Law.

(c) This section shall become operative on January 1, 2001.

SEC. 2. Section 4601.1 is added to the Public Resources Code, to read:

4601.1. (a) (1) In addition to any other penalty, any person who intentionally, knowingly, or negligently violates this chapter or a rule or regulation adopted by the board pursuant to this chapter is subject to a civil penalty imposed by a court in an amount not to exceed ten thousand dollars ($10,000) for each violation. For purposes of this section, damage that occurs over multiple days that results from a single action shall not be considered a continuing violation. For purposes of this section, each specific act that results in a violation of this chapter or a rule or regulation adopted pursuant to this chapter, including an act that is repeated on separate days, shall be considered a separate violation.

(2) The Attorney General or District Attorney, upon request of the director, shall, as part of a misdemeanor action brought pursuant to Section 4601, petition the superior court to impose, assess, and recover a civil penalty pursuant to this subdivision. In determining the appropriate amount, the court shall consider all relevant circumstances, including, but not limited to, persistence, circumstances, extent and gravity of the violation, the length of the time over which the violation occurred, whether any substantial damage caused by the violation is susceptible to corrective action, whether the violation was willful or caused by negligence, and, with respect to the violator, the ability of the violator to pay any fines or penalties, the effect on the ability to continue in business, the corrective action, if any, taken by the violator, whether the violator has any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(b) A civil penalty may also be administratively imposed by the department in accordance with Section 4601.2 on any person who intentionally, knowingly, or negligently violates this chapter or a rule or regulation adopted by the board pursuant to this chapter in an

amount not to exceed ten thousand dollars ($10,000) for each violation of a separate provision. For purposes of this section, damage that occurs over multiple days that results from a single action shall not be considered a continuing violation. For purposes of this section, each specific act that results in a violation of this chapter or a rule or regulation adopted pursuant to this chapter, including an act that is repeated on separate days, shall be considered a separate violation.

(c) No person is subject to both a civil penalty imposed by the superior court under subdivision (a) and a civil penalty administratively imposed under subdivision (b) for the same act or failure to act.

(d) Any money recovered by the department pursuant to this section shall be deposited in the General Fund.

SEC. 3. Section 4601.2 is added to the Public Resources Code, to read:

4601.2. (a) The director may issue a complaint and proposed order to any person on whom an administrative penalty may be imposed pursuant to subdivision (b) of Section 4601.1. The complaint and order shall allege the act or failure to act that constitutes a violation, include a citation to the provisions authorizing the civil penalty to be imposed, and include the proposed civil penalty.

(b) In determining the amount of any administrative civil penalty, the department shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature, persistence, circumstances, extent and gravity of the violation, the length of time over which the violation occurred, whether any substantial damage caused by the violation is susceptible to corrective action, whether the violation was willful or caused by negligence, and, with respect to the violator, the ability of the violator to pay any fines or penalties, the effect on ability to continue in business, the corrective action, if any, taken by the violator, whether the violator has any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(c) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that, upon the request of the party made within 10 days of such service, a hearing shall be conducted before the board or an administrative law judge within 180 days from the date that the party is served. The chairperson of the board may delegate the conduct of the hearing to a committee of the board, which shall be composed of at least three members of the board, or elect to utilize an administrative law judge assigned in accordance with Section 11370.3 of the Government Code. If the chairperson delegates the matter to a committee of the board, a majority of the committee members shall not have a financial interest in the forest products or range industry. The committee may exercise any power the board may exercise.

(d) The party charged with a violation may waive a right to a hearing, in which case the board shall not conduct a hearing, and the order of the director shall become final.

(e) After a hearing, the board or an administrative law judge may adopt, with or without revision, the proposed order of the director.

(f) An order setting an administrative civil penalty shall become effective and final upon its adoption pursuant to subdivision (e), and any payment shall be made within the time period provided by subdivision (b) of Section 4601.3. Copies of the order shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

SEC. 4. Section 4601.3 is added to the Public Resources Code, to read:

4601.3. (a) Any party who is aggrieved by a final order issued by the board or an administrative law judge under Section 4601.2 may obtain review of the order in the superior court in the county in which the violation occurred by filing a petition for a writ of mandate with the court within 30 days from the date of service of the order on the party. If the aggrieved party does not petition for a writ of mandate within that 30-day period, the order of the board or an administrative law judge is not thereafter subject to review by any court.

(b) After the time for judicial review has expired, or where the party has not requested a review of the order, the administrative penalty shall be due and payable to the department within 20 days. The department may apply to the clerk of the appropriate court in the county in which the civil penalty was imposed for a judgment to collect the penalty. The application, which shall include a certified copy of the action by the board or the administrative law judge, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalty. The court clerk shall enter the judgment in conformity with the application. Any judgment so entered by the court clerk shall have the same force and effect as, and is subject to the laws relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

SEC. 5. Section 4601.4 is added to the Public Resources Code, to read:

4601.4. (a) The violation of any rule or regulation adopted by the board pursuant to this chapter prescribing any procedural requirement that does not result in, or cause, any environmental damage, and is not a violation of Section 4571 or 4581, is an infraction punishable pursuant to Section 4601.5.

(b) The board shall designate those rules and regulations by section number that prescribe procedural requirements, the violation of which does not result in, or cause, environmental damage.

SEC. 6. Section 4601.5 is added to the Public Resources Code, to read:

4601.5. (a) Any person who violates a rule or regulation of the board, the violation of which is an infraction as described in Section 4601.4, shall, upon conviction of the infraction, pay a fine in accordance with the following schedule:

(1) A fine of one hundred dollars ($100) shall be imposed for the first conviction of an infraction.

(2) A fine of two hundred fifty dollars ($250) shall be imposed for a second or subsequent conviction for the same violation within a three-year period.

(b) The board may provide, by regulation, that certain violations of a rule or regulation that would constitute an infraction, if prosecuted, are correctable and not subject to prosecution, if the violation is corrected within 10 working days from the date of the violation.

SEC. 7. Section 4612 of the Public Resources Code is amended to read:

4612. Notwithstanding Section 7550.5 of the Government Code, the director shall report to the board and the Legislature by January 1 of each year on the enforcement of, and the amount of penalties and fines imposed and collected pursuant to, this article, including, but not limited to, those penalties and fines imposed and collected pursuant to Sections 4601, 4601.1, and 4601.5. The report shall specifically identify the location and ownership of all properties where persons were cited for violations requiring corrective action by the department pursuant to Section 4607, the nature and cost of the corrective actions, and whether all related expenses incurred by the state have been reimbursed by the responsible party.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CHAPTER 583

An act to amend Section 13651 of the Business and Professions Code, relating to service stations.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 30, 1999.]

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

SECTION 1. The Legislature finds and declares that air and water are essential to the safe operation of motor vehicles, and therefore public safety requires that free air and water be accessible at all service stations.

SEC. 2. Section 13651 of the Business and Professions Code is amended to read:

13651. (a) (1) On and after January 1, 2000, every service station in this state shall provide, during operating hours, and make available at no cost to customers who purchase motor vehicle fuel, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6,000 pounds or less.

(2) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus, at least one clearly visible sign which shall read as follows: "CALIFORNIA LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS WHO PURCHASE MOTOR VEHICLE FUEL. IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL-FREE TELEPHONE NUMBER: 1 (800) _____ _____." This sign shall meet the requirements of Sections 13473 and 13474 with regard to letter size and contrast. As used in this paragraph, automotive purposes does not include the washing of vehicles.

(b) (1) On and after January 1, 1990, every service station in this state located within 660 feet of an accessible right-of-way of any interstate or primary highway, as defined in Sections 5215 and 5220, shall provide, during business hours public restrooms for use by its customers. Service stations shall not charge customers separately for the use of restroom facilities.

(2) The public restroom shall not be temporary or portable but shall be permanent and shall include separate facilities for men and women, each with toilets and sinks suitable for use by disabled persons in accordance with Section 19955.5 of the Health and Safety Code and Title 24 of the California Code of Regulations. However, a service station not located along an interstate highway and in a rural area, as defined by Section 101 of Title 23 of the United States Code, and where the annualized average daily traffic count is 2,500 vehicles or less, is only required to provide a single restroom to be used by both men and women unless the local legislative body or, upon designation by the local legislative body, the local building official, determines and finds, based upon traffic studies and local or seasonal tourist patterns, that a single restroom would be inadequate to serve the public. In that event, the single restroom exemption shall not

apply. The single restroom shall contain a toilet, urinal, and sink suitable for use by disabled persons as required by the Americans With Disabilities Act and Title 24 of the California Code of Regulations. The single restroom shall be equipped with a locking mechanism to be operated by the user of the restroom and the restroom shall be maintained in a clean and sanitary manner.

(3) This subdivision does not apply to service stations which are operational prior to January 1, 1990, and which would be obligated to construct permanent restroom facilities to comply with this subdivision.

(4) For the purposes of this subdivision, "customer" means a person who purchases any product available for sale on the premises of the service station, including items not related to the repairing or servicing of a motor vehicle.

(c) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus or at or near the point of sale, at least one clearly visible sign showing a list of applicable state and federal fuel taxes per gallon of motor vehicle fuel sold from the dispensing apparatus.

(d) (1) The Division of Measurement Standards of the Department of Food and Agriculture shall, no later than January 1, 2001, establish a toll-free customer complaint telephone number. The toll-free telephone number thereby established shall be printed on the sign required pursuant to paragraph (2) of subdivision (a).

(2) Notwithstanding any other provision of law, employees of the Division of Measurement Standards, upon inspection, or upon notice of a complaint forwarded pursuant to this section, are empowered to investigate a complaint against a service station for lack of free air and water and issue a citation to the station, and to collect a fine of two hundred fifty dollars ($250) per valid complaint, unless the citation is challenged in court. No citation shall be issued if the air and water equipment is in good working order upon initial inspection, or if they are repaired to the satisfaction of the inspecting entity within 10 working days of the initial inspection. In addition, no citation based on nonfunctional air and water equipment shall be issued if the service station can establish that the equipment has been the target of repeated vandalism, substantiated by three or more police reports within six months detailing the vandalism.

SEC. 3. The Division of Measurement Standards of the Department of Food and Agriculture shall submit a report on the compliance rate and the enforcement costs of this act to the Legislature by March 1, 2001.

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.

CHAPTER 584

An act to amend Sections 13961.1 and 13965 of, and to add and repeal Section 13968.5 of, the Government Code, and to amend Section 1202.4 of the Penal Code, relating to victims of crime, and making an appropriation therefor.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 4, 1999.]

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

SECTION 1. Section 13961.1 of the Government Code is amended to read:

13961.1. (a) An emergency award shall be available for a victim or derivative victim if any of the following occur as a result of the crime:

(1) The victim incurs loss of income or the derivative victim incurs loss of support.

(2) The victim requires emergency medical treatment.

(3) The victim dies as a result of the crime and any individual, without anticipation of personal gain, incurs the funeral and burial expense.

(4) The victim is an adult victim of domestic violence in need of those relocation expenses authorized by paragraph (4) of subdivision (a) of Section 13965.

(b) Emergency award application forms shall be provided by the board upon request of the applicant. The board shall make available the application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim or derivative victim. Disbursements of funds for emergency awards shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons and local victim witness centers, who will use guidelines established by the board, to grant and disburse emergency awards. By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board or the applicant's representative may take additional 10-day periods to verify the emergency award claim and make payment.

(d) An applicant for an emergency award is not entitled to a hearing before the board to contest a denial of an emergency award.

However, the applicant may submit an application for a regular award and is entitled to a hearing pursuant to Section 13963 if that application is recommended for denial.

(e) The application for an emergency award shall notify the applicant that he or she must complete the regular application within one year of the date of the crime or certify that he or she does not anticipate claiming reimbursements in addition to those claimed in the application for an emergency award.

(f) If the applicant certifies that no expenses will be claimed beyond those claimed in the emergency award, the board shall subsequently verify the emergency award application upon receipt of the crime report or any other information the board may require. The other information shall include statements signed by the applicant authorizing the release of information to the board necessary for the verification of the claimed losses, and authorizing a lien in favor of the board against any recovery by the applicant by judgment, settlement, or otherwise as a result of any injury to the victim.

(g) If upon final disposition of the regular application or verification of the emergency award, it is found that the applicant is not eligible for assistance from the board, the applicant shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon a final disposition of the application, the board grants assistance to the applicant, the amount of the emergency award shall be deducted from the final award of compensation granted; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's or derivative victim's application for assistance, before any appellate action is instituted. If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(h) The amount of the emergency award shall be dependent upon the immediate needs of the victim or derivative victim, as evidenced by the victim's loss of income or the derivative victim's loss of support, the funeral and burial expenses incurred on behalf of the victim, and other losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. Except for applications filed pursuant to paragraph (3) of subdivision (a), in no event shall the amount of the emergency award exceed two thousand dollars ($2,000). Where an application has been filed pursuant to paragraph (3) of subdivision (a), the amount of the emergency award shall not exceed five thousand dollars ($5,000).

(i) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim or derivative victim on whose behalf the application is made.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of the agency.

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The nature of the injury and the name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) The name, address, and telephone number of the funeral and burial providers and the cost of funeral and burial expenses incurred to date.

(7) A statement that in the event the applicant is later found ineligible for assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(8) The applicant's signature and a statement that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(j) Where an application has been filed pursuant to paragraph (3) of subdivision (a), the application for the emergency award shall additionally contain the following:

(1) A statement that in the event the applicant receives reimbursement from another source, including, but not limited to, court-ordered restitution or life insurance, either in whole or in part for the funeral and burial expenses incurred on behalf of the victim, that the applicant will be required to repay the board.

(2) A complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to the claim, as prepared by a law enforcement agency pursuant to subdivision (d) of Section 13968. This report may, at the discretion of the law enforcement agency and as provided in subdivision (e) of Section 13968, exclude the names of witnesses or informants, if the release of this information would be detrimental to the parties or to an investigation currently in progress.

SEC. 1.5. Section 13965 of the Government Code, as amended by Section 3.5 of Chapter 895 of the Statutes of 1998, is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim or derivative victim. The board may take any or all of the following actions:

(1) Reimburse the following persons for the expense of their out-patient mental health counseling when that mental health counseling is necessary as a direct result of the crime:

(A) A victim in an amount not to exceed ten thousand dollars ($10,000).

(B) A derivative victim who is the surviving parent, sibling, child, spouse, or fiancé of a victim of a crime which directly resulted in the death of the victim in an amount not to exceed ten thousand dollars ($10,000).

(C) A derivative victim, as defined in subparagraph (A), (B), (C), or (D) of paragraph (2) of subdivision (a) of Section 13960, who is the primary caretaker of a minor victim of sexual or physical abuse whose claim is not denied or reduced pursuant to subdivision (b) or (d) of Section 13964 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims described in this subparagraph.

(D) A derivative victim not eligible for reimbursement pursuant to subparagraph (B) or (C) in an amount not to exceed three thousand dollars ($3,000), provided that mental health counseling of a derivative victim under subparagraph (E) of paragraph (2) of subdivision (a) of Section 13960 shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(E) A victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code in an amount not to exceed three thousand dollars ($3,000) for mental health counseling expenses only. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

The board may authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to either the victim or the derivative victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services, including peer counseling services provided by a rape crisis center, shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider or rape crisis center over the objection of the applicant.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this

reimbursement shall not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for services under the victims of crime program and that other reimbursement or direct subsidies are not available to serve the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape crisis center shall not exceed fifteen dollars ($15) for each hour of services provided. Those services shall be limited to individual, in-person counseling on a face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages directly resulting from the injury. Loss of wages shall not be paid by the board for more than three years following the crime. If the board determines, after review of an application for assistance, including the evaluation of a qualified provider, that pecuniary loss for which payment may be made under this paragraph is expected to continue more than six months after the date of approval of the victim's application for assistance, disbursement shall commence and continue on a monthly basis for the period of time pecuniary loss is expected to continue.

(3) Authorize a cash payment to a derivative victim described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 13960 who was legally dependent on the victim at the time of the crime for the loss of support incurred by that person as a direct result of the crime.

(A) Loss of support shall not be paid by the board for income lost by an adult for a period of more than three years following the date of the crime.

(B) Loss of support shall not be paid by the board on behalf of a minor for a period beyond the child's attaining the age of 18 years.

(C) The total amount payable to all derivative victims for loss of support pursuant to this paragraph as the result of one crime shall not exceed forty-six thousand dollars ($46,000).

(4) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to an adult victim of domestic violence for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. These expenses may include, but need not be limited to, all of the following:

(i) Deposits for utilities and telephone service.

(ii) Deposits for rental housing, not to exceed the first and last month's rent or two thousand dollars ($2,000), whichever is less.

(iii) Temporary lodging and food expenses, not to exceed one thousand dollars ($1,000).

(iv) Clothing and other personal items, not to exceed five hundred dollars ($500).

(B) The board shall develop procedures to ensure that the victim is using the cash payment only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, lease agreements, or other documents as requested, or developing a method for direct payment to the landlord or vendor.

(C) When a relocation payment or reimbursement is provided to a victim of domestic violence, the victim shall agree to not inform the offender of the location of the victim's new residence and to not allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(D) The board may authorize a cash payment or reimbursement pursuant to this paragraph to victims of crimes other than domestic violence if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(E) The cash payment or reimbursement made under this paragraph shall only be awarded once to any victim, except that the board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(i) The crime or series of crimes occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same perpetrator.

(5) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(6) (A) In the case of a victim of a crime that occurred in the victim's residence, authorize reimbursement for the expense for installing or increasing residential security, not to exceed one thousand dollars ($1,000). Installing or increasing residential security may include, but need not be limited to, both of the following:

(i) Home security device or system.

(ii) Replacing or increasing the number of locks.

(B) Reimbursement under this paragraph shall be made upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(C) The board shall develop procedures to ensure that the victim is using the reimbursement only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(7) (A) In the case of a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total, authorize a reimbursement for the expense of renovating or retrofitting his or her residence or vehicle, or both, to make the residence accessible or the vehicle operational by the victim.

Reimbursement shall be made upon verification that the expense is medically necessary. Payment for these purposes shall not exceed five thousand dollars ($5,000), except that the board may award a greater amount when justified by the disability of the victim.

(B) The board shall develop procedures to ensure that reimbursement is made only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(8) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(9) When a victim dies as a direct result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay, the medical or burial expenses incurred as a direct result of the crime for the medical or burial expenses incurred in an amount not to exceed the rates or limitations established by the board.

(10) The total award to or on behalf of the victim or a derivative victim shall not exceed twenty-three thousand dollars ($23,000), and may be increased only in accordance with this section.

(11) In the event that the victim requests that the board give priority to reimbursement of loss of wages, the board shall not pay medical expenses or mental health counseling expenses except upon the request of the victim or after determining that payment of these expenses will not decrease the funds available to the victim for payment of loss of wages.

(12) The board may authorize a direct cash payment to a provider of services that are reimbursable pursuant to this article. However, the board may not, without good cause, authorize a direct cash payment to a provider over the objection of the victim or applicant.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim or derivative victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to the victim's or derivative victim's need, subject to the maximum limits provided in this section.

(d) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an

amount equal to 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this article.

(f) The maximum cash payments authorized in paragraph (7) of subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for those increases are available.

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars ($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not exceed the limits imposed by subdivisions (a) and (j).

(i) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(j) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, for which restitution is requested pursuant to this section. For mental health and counseling services, rates shall not exceed the statewide average. The adoption, amendment, and repeal of these maximum rates shall not be subject to the Administrative Procedure Act under Chapter 3.5 (commencing with Section 11340) of Part 1. An informational copy of the maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in

full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service.

To assure service limitations which are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars ($5,000) to determine the need to continue treatment in excess of that amount. The board may accept or reject claims for the amount in excess of five thousand dollars ($5,000) by applying the same standards applicable to processing the initial claim or may approve a continuing treatment regimen for a specific interval or subject to periodic review as appropriate. All information requested of the treating therapist shall be provided at no cost to the applicant, the board, or to local victim centers, pursuant to subdivision (b) of Section 13962. Requests for additional information shall be made in a timely manner so as not to interfere with necessary treatment.

(k) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority which the board may have under current law except as explicitly provided in this section.

(*l*) The board, in its discretion, may make payments directly to providers prior to verification.

(m) Notwithstanding paragraph (1) of subdivision (a), the board may reimburse a victim or derivative victim for mental health counseling in excess of that authorized by that paragraph if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(n) Notwithstanding paragraph (1) of subdivision (a), if, as of December 31, 1993, a person has incurred mental health counseling expenses pursuant to this article in excess of one-half of the amount specified in that subdivision, the board may award, in addition to amounts awarded for previously incurred expenses, an amount equal to not more than one-half of the applicable maximum amount specified in that paragraph or any additional amounts as the board determines is necessary.

(o) The limitations on the amounts which the board may reimburse for loss of support and loss of wages pursuant to paragraphs (2) and (3) of subdivision (a) shall not apply to victims or derivative victims whose claims for loss of wages and loss of support had been approved prior to January 1, 1994.

(p) The total award to or on behalf of a victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not exceed three thousand dollars ($3,000) for mental health counseling expenses only.

(q) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 2. Section 13965 of the Government Code, as added by Section 3.7 of Chapter 895 of the Statutes of 1998, is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim or derivative victim. The board may take any or all of the following actions:

(1) Reimburse the following persons for the expense of their out-patient mental health counseling when that mental health counseling is necessary as a direct result of the crime:

(A) A victim in an amount not to exceed ten thousand dollars ($10,000).

(B) A derivative victim who is the surviving parent, sibling, child, spouse, or fiancé of a victim of a crime which directly resulted in the death of the victim in an amount not to exceed ten thousand dollars ($10,000).

(C) A derivative victim who is the primary caretaker of a minor victim of sexual or physical abuse whose claim is not denied or reduced pursuant to subdivision (b) or (d) of Section 13964 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims described in this subparagraph.

(D) A derivative victim not eligible for reimbursement pursuant to subparagraph (B) or (C) in an amount not to exceed three thousand dollars ($3,000).

The board may authorize a direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code or to either the victim or the derivative victim, equal to the pecuniary loss attributable to medical or medical-related expenses, including counseling, directly resulting from the injury. Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services, including peer counseling services provided by a rape crisis center, shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment. However, the board may not authorize without good cause a direct cash payment to a licensed health care provider or rape crisis center over the objection of the applicant.

When a public agency, including a court or district attorney or a police, county child protective services, or other state or local governmental agency, refers a victim of crime to a private nonprofit agency for treatment for that victim, the private nonprofit agency shall be reimbursed for those services at the level of the normal and customary fee charged by the private nonprofit agency to clients

with adequate means of payment for its services, except that this reimbursement shall not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for services under the victims of crime program and that other reimbursement or direct subsidies are not available to serve the victim.

Payments authorized pursuant to this paragraph for peer counseling services provided by a rape counseling center shall not exceed fifteen dollars ($15) for each hour of services provided. Those services shall be limited to individual, in-person counseling on a face-to-face basis for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages directly resulting from the injury. Loss of wages shall not be paid by the board for more than two years following the crime. However, loss of wages may be extended for one additional year if the victim is either enrolled in a program of retraining or other rehabilitation approved by the board or has established to the satisfaction of the board that because of his or her disability arising from the crime he or she is unable to participate in any retraining or rehabilitation. If the board determines, after review of an application for assistance, including the evaluation of a qualified provider, that pecuniary loss for which payment may be made under this paragraph is expected to continue more than six months after the date of approval of the victim's application for assistance, disbursement shall commence and continue on a monthly basis for the period of time pecuniary loss is expected to continue.

(3) Authorize a cash payment to a derivative victim described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 13960 who was legally dependent on the victim at the time of the crime for the loss of support incurred by that person as a direct result of the crime.

(A) Loss of support shall not be paid by the board for income lost by an adult for a period of more than two years and shall not extend more than three years following the date of the crime.

(B) Loss of support shall not be paid by the board on behalf of a minor for a period beyond the child's attaining the age of 18 years.

(C) The total amount payable to all derivative victims for loss of support pursuant to this paragraph as the result of one crime shall not exceed forty-six thousand dollars ($46,000).

(4) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to an adult victim of domestic violence for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. These expenses may include, but need not be limited to, all of the following:

(i) Deposits for utilities and telephone service.

(ii) Deposits for rental housing, not to exceed the first and last month's rent or two thousand dollars ($2,000), whichever is less.

(iii) Temporary lodging and food expenses, not to exceed one thousand dollars ($1,000).

(iv) Clothing and other personal items, not to exceed five hundred dollars ($500).

(B) The board shall develop procedures to ensure that the victim is using the cash payment only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, lease agreements, or other documents as requested, or developing a method of direct payment to the landlord or vendor.

(C) When a relocation payment or reimbursement is provided to a victim of domestic violence, the victim shall agree to not inform the offender of the location of the victim's new residence and to not allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(D) The board may authorize a cash payment or reimbursement pursuant to this paragraph to victims of crimes other than domestic violence if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(E) The cash payment or reimbursement made under this paragraph shall only be awarded once to any victim, except that the board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(i) The crime or series of crimes occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same perpetrator.

(5) Authorize cash payments to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(6) (A) In the case of a victim of a crime that occurred in the victim's residence, authorize reimbursement for the expense for installing or increasing residential security, not to exceed one thousand dollars ($1,000). Installing or increasing residential security may include, but need not be limited to, both of the following:

(i) Home security device or system.

(ii) Replacing or increasing the number of locks.

(B) Reimbursement under this paragraph shall be made upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(C) The board shall develop procedures to ensure that the victim is using the reimbursement only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring

copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(7) (A) In the case of a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total, authorize reimbursement for the expense of renovating or retrofitting his or her residence or vehicle, or both, to make the residence accessible or the vehicle operational by the victim. Reimbursement shall be made upon verification that the expense is medically necessary. Payment for these purposes shall not exceed five thousand dollars ($5,000), except that the board may award a greater amount when justified by the disability of the victim.

(B) The board shall develop procedures to ensure that reimbursement is made only for the purposes of this paragraph. The procedures may include, but need not be limited to, requiring copies of receipts, invoices, estimates, or other documents, or developing a method for direct payment to the vendor.

(8) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is obtained, payments shall not be discontinued prior to completion of the reevaluation.

(9) When a victim dies as a direct result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay, the medical or burial expenses incurred as a direct result of the crime for the medical or burial expenses incurred in an amount not to exceed the rates or limitations established by the board.

(10) The total award to or on behalf of the victim or a derivative victim shall not exceed twenty-three thousand dollars ($23,000), and may be increased only in accordance with this section.

(11) In the event that the victim requests that the board give priority to reimbursement of loss of wages, the board shall not pay medical expenses or mental health counseling expenses except upon the request of the victim or after determining that payment of these expenses will not decrease the funds available to the victim for payment of loss of wages.

(12) The board may authorize a direct cash payment to a provider of services that are reimbursable pursuant to this article. However, the board may not, without good cause, authorize a direct cash payment to a provider over the objection of the victim or applicant.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim or derivative victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to the victim's or derivative victim's need, subject to the maximum limits provided in this section.

(d) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this section. Payments under this section shall be in addition to any amount authorized or ordered under subdivision (d) of Section 13969.1.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this article.

(f) The maximum cash payments authorized in paragraph (7) of subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for those increases are available.

(g) Notwithstanding subdivisions (a) and (f), a victim injured between January 1, 1985, and December 31, 1985, shall be entitled to receive a maximum cash payment of forty-six thousand dollars ($46,000) if federal funds for these increases are available, but only for costs in excess of limitations provided for in subdivision (a) which are attributable to medical or medical-related expenses, except for psychological or psychiatric treatment, or mental health counseling services.

(h) Notwithstanding any conflicting provision of this chapter, the board may make additional payments for purposes described in paragraph (1) of subdivision (a) to any victim who filed an application with the board on or after December 1, 1982, who was a victim of a crime involving sexual assault, and who is a minor at the time the additional payments pursuant to this subdivision are made. The payments authorized by this subdivision shall not exceed the limits imposed by subdivisions (a) and (j).

(i) Reimbursement for any medical or medical-related services shall, if the victim's application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider under this subdivision or paragraph (1) of subdivision (a) shall not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider shall be discontinued, the board shall notify the provider of their discontinuance within 30 days of its determination.

(j) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related expenses, including counseling expenses, for which restitution is requested pursuant to this section. For mental health and counseling

services, rates shall not exceed the statewide average. The adoption, amendment, and repeal of these maximum rates shall not be subject to the Administrative Procedure Act under Chapter 3.5 (commencing with Section 11340) of Part 1. An informational copy of the maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service.

To assure service limitations which are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity. The board may further require additional documentation, information, or medical review of cases of continuing treatment which are projected to exceed five thousand dollars ($5,000) to determine the need to continue treatment in excess of that amount. The board may accept or reject claims for the amount in excess of five thousand dollars ($5,000) by applying the same standards applicable to processing the initial claim or may approve a continuing treatment regimen for a specific interval or subject to periodic review as appropriate. All information requested of the treating therapist shall be provided at no cost to the applicant, the board, or to local victim centers, pursuant to subdivision (b) of Section 13962. Requests for additional information shall be made in a timely manner so as not to interfere with necessary treatment.

(k) The authority provided by this section shall not be construed to in any way diminish, enhance, or otherwise affect any authority which the board may have under current law except as explicitly provided in this section.

(*l*) The board, in its discretion, may make payments directly to providers prior to verification.

(m) Notwithstanding paragraph (1) of subdivision (a), the board may reimburse a victim or derivative victim for mental health counseling in excess of that authorized by that paragraph if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(n) Notwithstanding paragraph (1) of subdivision (a), if, as of December 31, 1993, a person has incurred mental health counseling expenses pursuant to this article in excess of one-half of the amount specified in that subdivision, the board may award, in addition to amounts awarded for previously incurred expenses, an amount equal to not more than one-half of the applicable maximum amount specified in that paragraph or any additional amounts as the board determines is necessary.

(o) The limitations on the amounts which the board may reimburse for loss of support and loss of wages pursuant to paragraphs (2) and (3) of subdivision (a) shall not apply to victims or derivative

victims whose claims for loss of wages and loss of support had been approved prior to January 1, 1994.

(p) This section shall become operative on January 1, 2003.

SEC. 3. Section 13968.5 is added to the Government Code, to read:

13968.5. (a) The board shall conduct a pilot program that entitles a victim or derivative victim to be reimbursed from the Restitution Fund for grief, mourning, and bereavement services in cases of death or severe trauma, except that the services shall not include mental health services for which a state license is required. These services shall be rendered by a person certified as a child life specialist by the National Child Life Council, who has at least five years of professional experience in the field of child life, as defined by the council. These services shall be performed under the supervision of a court, hospital, physician and surgeon, licensed psychotherapist included in Section 1010 of the Evidence Code, community-based organization, or county. The board may only include in the program a certified child life specialist who has been determined by a current employer in California or a California licensing entity not to have a criminal history that would prevent that employment or the issuance of a license. If neither determination has occurred, the board shall secure from the Department of Justice a criminal record to determine whether the applicant would be disqualified pursuant to Section 7911.1 of the Health and Safety Code, and for these purposes the board may make the determinations required by that section. The board may charge a certified child life specialist a fee for the actual cost of fingerprinting and obtaining the criminal history information required by this section. The program shall terminate on January 1, 2004. The board shall evaluate the program and, notwithstanding Section 7550.5, shall report its conclusions and recommendations to the Legislature by January 31, 2003. The board may consider whether child life specialists should be licensed by a state agency in making its recommendations to the Legislature.

(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.

SEC. 4. Section 1202.4 of the Penal Code, as amended by Chapter 121 of the Statutes of 1999, is amended to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.

(2) Upon a person being convicted of any crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense, but shall not be less than two hundred dollars ($200), and not more than ten thousand dollars ($10,000), if the person is convicted of a felony, and shall not be less than one hundred dollars ($100), and not more than one thousand dollars ($1,000), if the person is convicted of a misdemeanor.

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of two hundred dollars ($200) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the two-hundred-dollar ($200) or one-hundred-dollar ($100) minimum.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the two-hundred-dollar ($200) or one-hundred-dollar ($100) minimum, the court shall consider any relevant factors including, but not limited to, the defendant's inability to pay, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered any losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. A separate hearing for the fine shall not be required.

(e) The restitution fine shall not be subject to penalty assessments as provided in Section 1464, and shall be deposited in the Restitution Fund in the State Treasury.

(f) In every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the

defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the proceeding held to decide the motion.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of any third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the Victims of Crime Program pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a crime, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(4) Except as provided in paragraph (5), in any case in which an order may be entered pursuant to this subdivision, the defendant shall prepare and file a disclosure identifying all assets, income, and liabilities in which the defendant held or controlled a present or future interest as of the date of the defendant's arrest for the crime for which restitution may be ordered. This disclosure shall be available to the victim pursuant to Section 1214, and any use the court may make of the disclosure shall be subject to the restrictions of subdivision (g). The disclosure shall be signed by the defendant upon a form approved or adopted by the Judicial Council for the purpose of facilitating the disclosure. Any defendant who willfully states as true any material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty.

(5) A defendant who fails to file the financial disclosure required in paragraph (4), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (4), and paragraphs (6), (7), (8), and (9) shall not apply.

(6) Except as provided in paragraph (5), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(7) In its discretion, the court may relieve the defendant of the duty under paragraph (6) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) Any report submitted pursuant to subparagraph (C) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) Any stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) Any report by the probation officer, or any information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(8) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (4) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(B) A factor indicating that the interests of justice would not be served by admitting the defendant to probation under Section 1203.

(C) A factor indicating that the interests of justice would not be served by conditionally sentencing the defendant under Section 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

(9) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (4) shall not delay entry of an order of restitution or pronouncement of sentence. In appropriate cases, the court may do any of the following:

(A) Require the defendant to be examined by the district attorney pursuant to subdivision (h).

(B) If sentencing the defendant under Section 1170, provide that the victim shall receive a copy of the portion of the probation report filed pursuant to Section 1203.10 concerning the defendant's employment, occupation, finances, and liabilities.

(C) If sentencing the defendant under Section 1203, set a date and place for submission of the disclosure required by paragraph (4) as a condition of probation or suspended sentence.

(g) The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" shall include all of the following:

(1) The immediate surviving family of the actual victim.

(2) Any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

(3) "Derivative victims" as defined in Section 13960 of the Government Code.

(*l*) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that restitution should not be required. Upon revocation of probation, the court shall impose restitution pursuant to this section.

(o) The provisions of Section 13966.01 of the Government Code shall apply to restitution imposed pursuant to this section.

(p) (1) This section shall become operative on January 1, 2000, except when all of the following apply:

(A) A majority of judges of a court apply to the Judicial Council for an extension.

(B) The judicial application described in paragraph (1) documents the need for time to adjust restitution procedures and practices, as well as to facilitate judicial education and training in direct restitution to victims under subdivision (f).

(C) The Judicial Council grants the extension upon finding good cause.

(2) Upon the grant of an extension pursuant to the application of a court under this subdivision, the provisions of former Section 1214 shall continue to apply with respect to that court. The extension may be for any period of time set by the Judicial Council, but shall not exceed January 1, 2002, in any case.

CHAPTER 585

An act to add Part 8.1 (commencing with Section 7920) to Division 5 of the Labor Code, relating to amusement rides.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 4, 1999.]

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

SECTION 1. Part 8.1 (commencing with Section 7920) is added to Division 5 of the Labor Code, to read:

PART 8.1. PERMANENT AMUSEMENT RIDE SAFETY INSPECTION PROGRAM

7920. It is the intent of the Legislature in enacting this part to create a state system for the inspection of permanent amusement rides. This part shall be known and may be cited as the Permanent Amusement Ride Safety Inspection Program.

7921. As used in this part:

(a) "Permanent amusement ride" means a mechanical device, aquatic device, or combination of devices, of a permanent nature that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Permanent amusement ride" includes the business of operating bungee jumping services or providing services to facilitate bungee jumping, but does not include slides, playground equipment, coin-operated devices or conveyances that operate directly on the ground or on a surface or pavement directly on the ground. The division shall determine the specific devices that are permanent amusement rides for the purposes of this part. This determination shall be made to apply equally to all operators of similar or identical rides and shall be made pursuant to a procedure promulgated by the standards board.

(b) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of an amusement ride. It includes the state and every state agency, and each county, city, district, and all public and quasi-public corporations and public agencies therein.

(c) "Qualified safety inspector" means either of the following:

(1) A person who holds a valid professional engineer license issued by this state or issued by an equivalent licensing body in another state, and who has been approved by the division as a qualified safety inspector for permanent amusement rides.

(2) A person who documents to the satisfaction of the division that he or she meets all of the following requirements:

(A) The person has a minimum of five years experience in the amusement ride field, at least two years of which were involved in actual amusement ride inspection with a manufacturer, government agency, amusement park, carnival, or insurance underwriter.

(B) The person completes not less than 15 hours per year of continuing education at a school approved by the division, which education shall include inservice industry or manufacturer updates and seminars.

(C) The person has completed at least 80 hours of formal education during the past five years from a school approved by the division for amusement ride safety. Nondestructive-testing training, as determined by the division, may be substituted for up to one-half of the 80 hours of education.

7922. This part does not apply to any of the following:

(a) Any playground operated by a school or local government if the playground is an incidental amenity and the operating entity is not primarily engaged in providing amusement, pleasure, thrills, or excitement.

(b) Museums or other institutions principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

(c) Skating rinks, arcades, laser or paint ball war games, indoor interactive arcade games, bowling alleys, miniature golf courses, mechanical bulls, inflatable rides, trampolines, ball crawls, exercise equipment, jet skis, paddle boats, air boats, helicopters, airplanes, parasails, hot air balloons, whether tethered or untethered, theaters, amphitheaters, batting cages, stationary spring-mounted fixtures, rider-propelled merry-go-rounds, games, slide shows, live animal rides, or live animal shows.

(d) Permanent amusement rides operated at a private event that are not open to the general public and not subject to a separate admission charge.

7923. (a) The division shall formulate and propose rules and regulations for adoption by the Occupational Safety and Health Standards Board for the safe installation, repair, maintenance, use, operation, and inspection of all permanent amusement rides as the division finds necessary for the protection of the general public using permanent amusement rides. The rules and regulations shall be in addition to the existing applicable safety orders and will be concerned with engineering force stresses, safety devices, and preventative maintenance. Nothing in this part shall limit the

authority of the division to prescribe or enforce general or special safety orders.

(b) It is the Legislature's intent that the rules and regulations adopted pursuant to this part be consistent with those adopted by the Occupational Safety and Health Standards Board for traveling amusement rides, to the extent that those rules and regulations are found to be appropriate.

7924. (a) On an annual basis, each owner of a permanent amusement ride shall submit to the division a certificate of compliance on a form prescribed by the division, which shall include the following:

(1) The legal name and address of the owner and his or her representative, if any, and the primary place of business of the owner.

(2) A description of, the name of the manufacturer of, and, if given by the manufacturer, the serial number and model number of, the permanent amusement ride.

(3) A written declaration, executed by a qualified safety inspector, stating that, within the preceding 12-month period, the permanent amusement ride was inspected by the qualified safety inspector and that the permanent amusement ride is in material conformance with the requirements of this section and all applicable rules and regulations adopted by the division and standards board.

(b) The owner of multiple permanent amusement rides at a single site may submit a single certificate of compliance that provides the information required by subdivision (a) for each permanent amusement ride at that site.

(c) A certificate of compliance shall not be required until one year following the promulgation of any rules or regulations by the division governing the submission of the certificates.

(d) No person shall operate a permanent amusement ride that has been inspected by a qualified safety inspector or division inspector and found to be unsafe, unless all necessary repairs or modifications, or both, to the ride have been completed and certified as completed by a qualified safety inspector.

(e) For the purposes of satisfying this section, a qualified safety inspector shall meet the requirements in subdivision (c) of Section 7921 and shall be certified by the division. Each qualified safety inspector shall be recertified every two years following his or her initial certification. A qualified safety inspector may be an in-house, full-time safety inspector of the owner of the permanent amusement ride, an employee or agent of the insurance underwriter or insurance broker of the permanent amusement ride, an employee or agent of the manufacturer of the amusement ride, or an independent consultant or contractor.

(f) The owner of a permanent amusement ride shall maintain all of the records necessary to demonstrate that the requirements of this section have been met, including, but not limited to, employee training records, maintenance, repair, and inspection records for

each permanent amusement ride, and records of accidents of which the operator has knowledge, resulting from the failure, malfunction, or operation of a permanent amusement ride, requiring medical service other than ordinary first aid, and shall make them available to a division inspector upon request. The owner shall make those records available for inspection by the division during normal business hours at the owner's permanent place of business. The owner, or representative of the owner, may be present when the division inspects the records. In conjunction with an inspection of records conducted pursuant to this subdivision, the division shall conduct an inspection of the operation of the rides at the permanent amusement park.

(g) Upon receipt of a certificate of compliance, the division shall notify the owner of the permanent amusement ride or rides for which a certificate is submitted whether the certificate meets all the requirements of this section, and if not, what requirements must still be met.

(h) The division shall, in addition to the annual inspection performed by the division pursuant to subdivision (f), inspect the records for a permanent amusement ride or the ride, or both, under either of the following circumstances:

(1) The division finds that the certificate of compliance submitted pursuant to this section for the ride is fraudulent.

(2) The division determines, pursuant to regulations it has adopted, that a permanent amusement ride has a disproportionately high incidence of accidents required to be reported pursuant to Section 7925.

(i) The division shall conduct its inspections with the least disruption to the normal operation of the permanent park.

7925. (a) Each operator of a permanent amusement ride shall report or cause to be reported to the division immediately by telephone each known accident where maintenance, operation, or use of the permanent amusement ride results in a death or serious injury to any person unless the injury does not require medical service other than ordinary first aid. If a death or serious injury results from the failure, malfunction, or operation of a permanent amusement ride, the equipment or conditions that caused the accident shall be preserved for the purpose of an investigation by the division.

(b) A division inspector may inspect any permanent amusement ride after the report of an accident to the division. The division may order a cessation of operation of a permanent amusement ride if it is determined after inspection to be hazardous or unsafe. Operation shall not resume until these conditions are corrected to the satisfaction of the division.

(c) Whenever a state, county, or local fire or police agency is called to an accident involving a permanent amusement ride covered by this part where a serious injury or death occurs, the

nearest office of the division shall be notified by telephone immediately by the responding agency.

7926. (a) A person may operate a permanent amusement ride only if, at the time of operation, one of the following is in existence:

(1) The owner of the permanent amusement ride provides an insurance policy in an amount not less than one million dollars ($1,000,000) per occurrence insuring the owner or operator against liability for injury or death to persons arising out of the use of the permanent amusement ride.

(2) The owner of the permanent amusement ride provides a bond in an amount not less than one million dollars ($1,000,000), except that the aggregate liability of the surety under that bond shall not exceed the face amount of the bond.

(3) The owner of a permanent amusement ride meets a financial test of self-insurance, as prescribed by rules and regulations promulgated by the division, to demonstrate financial responsibility covering liability for injury suffered by patrons riding the permanent amusement ride.

(b) The insurance policy or bond shall be obtained from one or more insurers or sureties licensed by the Department of Insurance to do business in this state, or by a nonadmitted insurer employed by a surplus lines broker licensed by the Department of Insurance.

7927. Each owner of a permanent amusement ride shall provide training for its employees in the safe operation and maintenance of amusement rides, as required by the standards adopted by the American Society for Testing Materials, Committee F770-03, Section 4.1.3, and Committee F853-93, Section 6.2, as amended or as may be amended from time to time, and the injury prevention program required under Section 6401.7.

7928. The division shall adopt rules and regulations necessary for the administration of this part. The division may employ qualified safety inspectors as necessary for the purposes of this part.

7929. The division may fix and collect all fees necessary to cover the cost of administering this part. Fees shall be charged to a person or entity receiving the division's services as provided by this part or by regulations adopted pursuant to this part, including, but not limited to, approvals, determinations, certifications and recertifications, receipt and review of certificates, and inspections. In fixing the amount of these fees, the division may include a reasonable percentage attributable to the general cost of the division for administering this part.

7930. If the division determines that any owner or operator of a permanent amusement ride subject to this part has willfully or intentionally violated this part or any rule or regulation promulgated under this part, and that violation results in a death or serious injury as specified in Section 7925, the division shall impose on that owner or operator a civil penalty of not less than twenty-five thousand

dollars ($25,000) and not more than seventy thousand dollars ($70,000).

7931. The division shall enforce this part by the issuance of a citation and notice of civil penalty in a manner consistent with Section 6317. Any owner or operator who receives a citation and penalty may appeal the citation and penalty to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319.

7932. (a) The provisions of this part relating to annual division inspections shall not apply to any permanent amusement ride located within a county or other political subdivision of the state that, as of April 1, 1998, has adopted the provisions of Chapter 66 (commencing with Section 6601.1) of the 1994 Uniform Building Code providing for the routine inspection of permanent amusement rides by the county or other political subdivision of the state, provided that the division determines that these inspections meet or exceed the inspection standards set forth in this part.

(b) If the county or other political subdivision suspends, revokes, or otherwise vacates its standards for permanent amusement rides, any permanent amusement ride located within the county or other political subdivision shall be subject to the inspection standards set forth in this part.

CHAPTER 586

An act to add Title 1.4B (commencing with Section 1749.60) to Part 4 of Division 3 of the Civil Code, relating to personal information.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 4, 1999.]

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

SECTION 1. Title 1.4B (commencing with Section 1749.60) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.4B. SUPERMARKET CLUB CARDS

1749.60. This title shall be known and may be cited as the "Supermarket Club Card Disclosure Act of 1999."

1749.61. For purposes of this title:

(a) "Cardholder" means any consumer to whom a supermarket club card is issued, provided that in cases where more than one supermarket club card has been issued for the same account, all persons holding those supermarket club cards may be treated as a single cardholder.

(b) "Supermarket" means any retailer that sells food items.

(c) "Supermarket club card" means any card, plate, coupon book, or other single device existing for the purpose of being used from time to time upon presentation for price discounts on retail products offered by the club card issuer. "Supermarket club card" does not include any credit card that is subject to Section 1748.12.

(d) "Club card issuer" means a supermarket that provides supermarket club cards to consumers, and includes a supermarket's contract information services provider.

(e) "Marketing information" means the categorization of cardholders compiled by a club card issuer, based on a cardholder's shopping patterns, spending history, or behavioral characteristics derived from account activity which is provided to any person or entity for consideration. "Marketing information" does not include aggregate data which does not identify a cardholder based on the cardholder's shopping patterns, spending history, or behavioral characteristics derived from account activity.

1749.63. A violation of this title constitutes "unfair competition" as defined in Section 17200 of the Business and Professions Code and is punishable as prescribed in Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

1749.64. Notwithstanding any other provision of law, no club card issuer shall request in a supermarket club card application, or require as a condition of obtaining a supermarket club card, that an applicant provide a driver's license number or a social security account number. This section shall not be construed to prohibit a club card issuer from requesting a driver's license number or a social security account number for a supermarket club card that can also be used as identification for check cashing purposes or to debit the checking or savings account of the cardholder. However, no club card issuer shall, as a condition of obtaining a supermarket club card, require a cardholder to obtain a supermarket club card that can also be used as identification for check cashing purposes or to debit the checking or savings account of the cardholder.

1749.65. (a) Notwithstanding any other provision of law, no club card issuer may sell or share a cardholder's name, address, telephone number, or other personal identification information.

(b) Nothing in this section is intended to prevent a club card issuer from providing names and addresses of cardholders to a third party for purposes of mailing supermarket club card information to cardholders on behalf of the club card issuer. However, that third party shall not use the information for any other purpose.

(c) Notwithstanding subdivision (a), this section does not prohibit a club card issuer from sharing marketing information that includes cardholder names and addresses if the club card issuer complies with all of the following:

(1) The club card issuer charges an annual fee for its supermarket club card.

(2) The club card issuer requires cardholders to renew supermarket club cards annually and to pay an annual renewal fee.

(3) The club card issuer allows only cardholders, and not members of the public, to make purchases in the supermarket.

(4) The club card issuer provides a privacy statement to the cardholder in the supermarket club card application and in the club card issuer's annual renewal material notifying cardholders that outside companies will be receiving marketing information including names and addresses of cardholders, and the cardholder has agreed to allow the club card issuer to share this information.

(5) Prior to selling or transferring names and addresses of cardholders to an outside company, the club card issuer has obtained a written confidentiality agreement from the outside company that the outside company will not sell or share the information with any other entity.

SEC. 2. This title shall become operative on July 1, 2000.

CHAPTER 587

An act to amend Sections 200, 220, 66251, and 66270 of, to add Section 241 to, and to amend and renumber Sections 221 and 66271 of, the Education Code, relating to discrimination.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This bill shall be known, and may be cited, as the California Student Safety and Violence Prevention Act of 2000.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Under the California Constitution, all students of public schools have the inalienable right to attend campuses that are safe, secure, and peaceful. Violence is the number one cause of death for young people in California and has become a public health problem of epidemic proportion. One of the Legislature's highest priorities must be to prevent our children from the plague of violence.

(2) The fastest growing, violent crime in California is hate crime, and it is incumbent upon us to ensure that all students attending public school in California are protected from potentially violent discrimination. Educators see how violence affects youth every day; they know first hand that youth cannot learn if they are concerned about their safety. This legislation is designed to protect the institution of learning as well as our students.

(3) Not only do we need to address the issue of school violence but also we must strive to reverse the increase in teen suicide. The

number of teens who attempt suicide, as well as the number who actually kill themselves, has risen substantially in recent years. Teen suicides in the United States have doubled in number since 1960 and every year over a quarter of a million adolescents in the United States attempt suicide. Sadly, approximately 4,000 of these attempts every year are completed. Suicide is the third leading cause of death for youths 15 through 24 years of age. To combat this problem we must seriously examine these grim statistics and take immediate action to ensure all students are offered equal protection from discrimination under California law.

SEC. 3. Section 200 of the Education Code is amended to read:

200. It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 4. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 5. Section 221 of the Education Code is renumbered to read:

220.5. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 6. Section 241 is added to the Education Code, to read:

241. Nothing in the California Student Safety and Violence Prevention Act of 2000 requires the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution; the California Student Safety and Violence Prevention Act of 2000 shall not be deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution.

SEC. 7. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The

purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 9. Section 66271 of the Education Code is renumbered to read:

66270.5. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

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.

CHAPTER 588

An act to add Division 2.5 (commencing with Section 297) to the Family Code, to add Article 9 (commencing with Section 22867) to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, and to add Section 1261 to the Health and Safety Code, relating to domestic partners.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. It is the intent of the Legislature to retain the right of hospitals and other health care facilities to establish visitation policies in reasonable and appropriate circumstances. In enacting this legislation, it is the intent of the Legislature to provide hospitals and other health facilities with the authority to administer those policies in a manner that applies equally to spouses, registered domestic partners, and other immediate family members.

SEC. 2. Division 2.5 (commencing with Section 297) is added to the Family Code, to read:

DIVISION 2.5. DOMESTIC PARTNER REGISTRATION

PART 1. DEFINITIONS

297. (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when all of the following requirements are met:

(1) Both persons have a common residence.

(2) Both persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership.

(3) Neither person is married or a member of another domestic partnership.

(4) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(5) Both persons are at least 18 years of age.

(6) Either of the following:

(A) Both persons are members of the same sex.

(B) Both persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless both persons are over the age of 62.

(7) Both persons are capable of consenting to the domestic partnership.

(8) Neither person has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to this division that has not been terminated under Section 299.

(9) Both file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division.

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

(d) "Basic living expenses" means, shelter, utilities, and all other costs directly related to the maintenance of the common household of the common residence of the domestic partners. It also means any other cost, such as medical care, if some or all of the cost is paid as a benefit because a person is another person's domestic partner.

(e) "Joint responsibility" means that each partner agrees to provide for the other partner's basic living expenses if the partner is unable to provide for herself or himself. Persons to whom these expenses are owed may enforce this responsibility if, in extending

credit or providing goods or services, they relied on the existence of the domestic partnership and the agreement of both partners to be jointly responsible for those specific expenses.

PART 2. REGISTRATION

298. (a) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and shall charge these fees to persons filing the forms.

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (4) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Violations of this subdivision are punishable as a misdemeanor.

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form to the domestic partners at the address provided by the domestic partners as their common residence.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership until at least six months after the date that a Notice of Termination of Domestic Partnership was filed with the Secretary of State pursuant to subdivision (b) of Section 299 in connection with the termination of the most recent domestic partnership. This prohibition does not apply if the previous domestic partnership ended because one of the partners died or married.

PART 3. TERMINATION

299. (a) A domestic partnership is terminated when any one of the following occurs:

(1) One partner gives or sends to the other partner a written notice by certified mail that he or she is terminating the partnership.

(2) One of the domestic partners dies.

(3) One of the domestic partners marries.

(4) The domestic partners no longer have a common residence.

(b) Upon termination of a domestic partnership, at least one former partner shall file a Notice of Termination of Domestic Partnership with the Secretary of State by mailing a completed form to the Secretary of State by certified mail. The date on which the Notice of Termination of Domestic Partnership is received by the Secretary of State shall be deemed the actual termination date of the domestic partnership, unless termination is caused by the death or marriage of a domestic partner, in which case the actual termination date shall be the date indicated on the Notice of Termination of Domestic Partnership form. The partner who files the Notice of Termination of Domestic Partnership shall send a copy of the notice to the last known address of the other partner.

(c) A former domestic partner who has given a copy of a Declaration of Domestic Partnership to any third party in order to qualify for any benefit or right shall, within 60 days of termination of the domestic partnership, give or send to the third party, at the last known address of the third party, written notification that the domestic partnership has been terminated. A third party who suffers a loss as a result of failure by the domestic partner to send this notice shall be entitled to seek recovery from the partner who was obligated to send it for any actual loss resulting thereby.

(d) Failure to provide the third-party notice required in subdivision (c) shall not delay or prevent the termination of the domestic partnership.

PART 4. LEGAL EFFECT

299.5. (a) The obligations that two people have to each other as a result of creating a domestic partnership are those described in Section 297. Registration as a domestic partner under this division shall not be evidence of, or establish, any rights existing under law other than those expressly provided to domestic partners in this division and Section 1261 of the Health and Safety Code.

The provisions relating to domestic partners provided in this division and Section 1261 of the Health and Safety Code shall not diminish any right under any other provision of law.

(b) Upon the termination of a domestic partnership, the partners, from that time forward, shall incur none of the obligations to each

other as domestic partners that are created by this division and Section 1261 of the Health and Safety Code.

(c) The filing of a Declaration of Domestic Partnership pursuant to this division shall not change the character of property, real or personal, or any interest in any real or personal property owned by either domestic partner or both of them prior to the date of filing of the declaration.

(d) The filing of a Declaration of Domestic Partnership pursuant to this division shall not, in and of itself, create any interest in, or rights to, any property, real or personal, owned by one partner in the other partner, including, but not limited to, rights similar to community property or quasi-community property.

(e) Any property or interest acquired by the partners during the domestic partnership where title is shared shall be held by the partners in proportion of interest assigned to each partner at the time the property or interest was acquired unless otherwise expressly agreed in writing by both parties. Upon termination of the domestic partnership, this subdivision shall govern the division of any property jointly acquired by the partners.

(f) The formation of a domestic partnership under this division shall not change the individual income or estate tax liability of each domestic partner prior to and during the partnership, unless otherwise provided under another state or federal law or regulation.

PART 5. PREEMPTION

299.6. (a) Any local ordinance or law that provides for the creation of a "domestic partnership" shall be preempted on and after July 1, 2000, except as provided in subdivision (c).

(b) Domestic partnerships created under any local domestic partnership ordinance or law before July 1, 2000, shall remain valid. On and after July 1, 2000, domestic partnerships previously established under a local ordinance or law shall be governed by this division and the rights and duties of the partners shall be those set out in this division, except as provided in subdivision (c), provided a Declaration of Domestic Partnership is filed by the domestic partners under Section 298.5.

(c) Any local jurisdiction may retain or adopt ordinances, policies, or laws that offer rights within that jurisdiction to domestic partners as defined by Section 297 or as more broadly defined by the local jurisdiction's ordinances, policies, or laws, or that impose duties upon third parties regarding domestic partners as defined by Section 297 or as more broadly defined by the local jurisdiction's ordinances, policies, or laws, that are in addition to the rights and duties set out in this division, and the local rights may be conditioned upon the agreement of the domestic partners to assume the additional obligations set forth in this division.

SEC. 3. Article 9 (commencing with Section 22867) is added to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, to read:

Article 9. Domestic Partners

22867. It is the purpose of this article to provide employers the ability to offer health care coverage through this part to the domestic partners of their employees and annuitants.

22868. For this part only, and only for the purposes of providing health care coverage pursuant to this part, a domestic partner is an adult in a domestic partnership, as defined in Section 22869, with a person enrolled as an employee or annuitant of an employer contracting with the board for health benefits coverage, who has submitted to the system a certificate of eligibility pursuant to Section 22872 or a valid Declaration of Domestic Partnership filed pursuant to Division 2.5 (commencing with Section 297) of the Family Code.

22869. For purposes of this part, a "domestic partnership" shall be two people who meet all of the criteria set forth in Section 297 of the Family Code.

22871. Notwithstanding any other provision of law, a domestic partner shall be included in the definition of a family member for purposes of Sections 22777, 22778, subdivision (a) of Section 22791, Sections 22811, 22811.5, 22812, 22813, 22815, subdivision (c) of Section 22816, Sections 22816.3, 22817, 22819, 22823, subdivision (a) of Section 22825, subdivision (a) of Section 22825.1, Section 22825.7, paragraph (1) of subdivision (b) of Section 22840.2, subdivision (f) of Section 22840.2, subdivision (b) of Section 22856, and Section 22859.

22871.1. Notwithstanding Section 22871 or any other provision of law, a domestic partner shall not be included in the definition of a family member for purposes of subdivisions (e) and (f) of Section 22754, subdivision (a) of Section 22811.6, and Section 22821.

22871.2. Notwithstanding subdivision (f) of Section 22754 or any other provision of law, a domestic partner shall be considered to be a family member for purposes of Section 22810, except that a domestic partner shall not be considered a family member for purposes of continued health coverage eligibility upon the death of the employee or annuitant.

22871.3. If an employee or annuitant has a domestic partner who is an employee or annuitant, each domestic partner may enroll as an individual. No person may be enrolled both as an employee or annuitant and as a family member. A family member may be enrolled with respect to only one employee or annuitant.

22872. (a) In order to receive any benefit provided by this article, an employee or annuitant shall present the board with proof in a manner designated by the board that the employee or annuitant and his or her domestic partner have filed a valid Declaration of

Domestic Partnership pursuant to Division 2.5 (commencing with Section 297) of the Family Code.

(b) The employee or annuitant shall also provide a signed statement indicating that the employee or annuitant agrees that he or she may be required to reimburse the employer, their designated health services plan, and the system, for any expenditures made by the employer, their designated health services plan, and the system, for medical claims, processing fees, administrative charges, costs, and attorney's fees on behalf of the domestic partner if any of the submitted documentation is found to be incomplete, inaccurate, or fraudulent.

(c) The employee or annuitant shall notify the employer or CalPERS when a domestic partnership has terminated, as required by subdivision (c) of Section 299 of the Family Code.

22873. (a) Any employer or contracting agency may, at its option, offer health benefits pursuant to this article, to the domestic partners of its employees and annuitants.

(b) The employer or contracting agency shall notify the board, in a manner prescribed by the board, that it is electing to provide health care coverage through this article to the domestic partners of its employees and annuitants.

(c) The employer or contracting agency shall provide to the system any information deemed necessary by the board to determine eligibility under this article.

22874. Notwithstanding any other provision of law, this article shall not be construed to extend any vested rights to any person nor be construed to limit the right of the Legislature to subsequently modify or repeal any provision of this article.

22875. This article shall apply to any of the following:

(a) Represented state employees who are members of a bargaining unit or who retired from a bargaining unit only if (1) there is a signed memorandum of understanding between the state and the recognized employee organization to adopt the benefits accorded under this article and (2) the Department of Personnel Administration makes this article simultaneously applicable to all eligible annuitants retired from the bargaining unit. This article shall not apply to active state employees who are members of a state bargaining unit unless it also applies to eligible annuitants retired from that bargaining unit.

(b) Members of the Public Employees' Retirement System who are employed by the Assembly, the Senate, and the California State University only if the Assembly Rules Committee, the Senate Rules Committee, and the Board of Trustees of the California State University, respectively, make this section applicable to their employees.

(c) Members of the Public Employees' Retirement System who are state employees of the judicial branch, and judges and justices who are members of the Judges' Retirement System or the Judges'

Retirement System II, if the Judicial Council makes this section applicable to them.

(d) Employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) upon adoption by the Department of Personnel Administration of regulations to implement employee benefits under this article for those state officers and employees excluded from, or not otherwise subject to the Ralph C. Dills Act. Regulations adopted or amended pursuant to this section shall not be subject to review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

22876. The board may establish a one-time special enrollment period to permit currently enrolled employees and annuitants whose domestic partners will be eligible for family member status pursuant to this article to enroll those domestic partners.

22877. An employer may require an employee or annuitant or his or her domestic partner to be financially responsible for any increased cost of covering the domestic partner that exceeds the normal employer contribution rate resulting from the decision of that employer to offer health coverage to domestic partners of employees and annuitants pursuant to this article.

SEC. 4. Section 1261 is added to the Health and Safety Code, to read:

1261. (a) A health facility shall allow a patient's domestic partner, the children of the patient's domestic partner, and the domestic partner of the patient's parent or child to visit, unless one of the following is met:

(1) No visitors are allowed.

(2) The facility reasonably determines that the presence of a particular visitor would endanger the health or safety of a patient, member of the health facility staff, or other visitor to the health facility, or would significantly disrupt the operations of a facility.

(3) The patient has indicated to health facility staff that the patient does not want this person to visit.

(b) This section may not be construed to prohibit a health facility from otherwise establishing reasonable restrictions upon visitation, including restrictions upon the hours of visitation and number of visitors.

(c) For purposes of this section, "domestic partner" has the same meaning as that term is used in Section 297 of the Family Code.

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.

CHAPTER 589

An act to add Section 1352.5 to the Civil Code, and to amend, repeal, and add Section 12955 of, and to add Section 12956.1 to, the Government Code, relating to housing.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1352.5 is added to the Civil Code, to read:

1352.5. (a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

(b) Notwithstanding any other provision of law or provision of the governing documents, the board of directors of an association, without approval of the owners, shall amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

(c) If after providing written notice to an association requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision (a). The court may award attorney's fees to the prevailing party.

SEC. 2. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital

status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

SEC. 2.1. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry,

familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the

aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 2.2. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of

housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 2.3. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex,

marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and

conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 2.5. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and

conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) This section shall become operative on January 1, 2005.

SEC. 2.6. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to

discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that

the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 3. Section 12956.1 is added to the Government Code, to read:

12956.1. (a) As used in this section, "association," "governing documents," and "declaration" have the same meanings as set forth in Section 1351 of the Civil Code.

(b) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a declaration , governing documents, or deed to any person shall place a cover page over the document or a stamp on the first page of the document stating, in at least 20-point boldface red type, the following:

"If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void. Any person holding an interest in this property may request that the county recorder remove the restrictive covenant language pursuant to subdivision (c) of Section 12956.1 of the Government Code."

(c) Any person who holds any interest in the property that is the subject of this document may require the county recorder to remove any blatant racial restrictive covenant contained in any recorded document associated with that property. Any application to the county recorder pursuant to this subdivision shall be in writing, shall identify the document and the location within the document where the restrictive covenant is located, and shall be accompanied by any fee prescribed by the recorder, not to exceed the actual cost of the required action. The recorder shall carry out the required action in a timely manner.

(d) Any person who files a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for filing such a document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the filing of the document.

SEC. 4. (a) Sections 2.1 and 2.5 of this bill incorporate amendments to Section 12955 of the Government Code proposed by both this bill and SB 1098. Sections 2.1 and 2.5 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1098, in which case Sections 2, 2.2, 2.3, and 2.6 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 12955 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and

become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1098 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1670, in which case Sections 2, 2.1, 2.3, 2.5, and 2.6 of this bill shall not become operative.

(c) Sections 2.3 and 2.6 of this bill incorporate amendments to Section 12955 of the Government Code proposed by this bill, SB 1098, and AB 1670. Sections 2.3 and 2.6 shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bill amend Section 12955 of the Government Code, and (3) this bill is enacted after SB 1098 and AB 1670, in which case Sections 2, 2.1, 2.2, and 2.5 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.

CHAPTER 590

An act to amend Section 1954.53 of, and to add Sections 1942.6 and 1954.535 to, the Civil Code, and to amend, repeal, and add Section 12955 of the Government Code, relating to residential real property.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1942.6 is added to the Civil Code, to read:

1942.6. Any person entering onto residential real property, upon the invitation of an occupant, during reasonable hours or because of emergency circumstances, for the purpose of providing information regarding tenants' rights or to participate in a lessees' association or association of tenants or an association that advocates tenants' rights shall not be liable in any criminal or civil action for trespass.

The Legislature finds and declares that this section is declaratory of existing law. Nothing in this section shall be construed to enlarge or diminish the rights of any person under existing law.

SEC. 2. Section 1954.53 of the Civil Code is amended to read:

1954.53. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial rental rate for a dwelling or unit, except where any of the following applies:

(1) The previous tenancy has been terminated by the owner by notice pursuant to Section 1946 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827, except a change permitted by law in the amount of rent or fees. For the purpose of this paragraph, the owner's termination or nonrenewal of a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, shall be construed as a change in the terms of the tenancy pursuant to Section 827.

(A) In a jurisdiction that controls by ordinance or charter provision the rental rate for a dwelling or unit, an owner who terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant shall not be eligible to set an initial rent for three years following the date of the termination or nonrenewal of the contract or agreement. For any new tenancy established during the three-year period, the rental rate for a new tenancy established in that vacated dwelling or unit shall be at the same rate as the rent under the terminated or nonrenewed contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant, plus any increases authorized after the termination or cancellation of the contract or recorded agreement.

(B) Subparagraph (A) shall not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant as set forth in that subparagraph.

(2) The owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) The initial rental rate for a dwelling or unit whose initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, shall not until January 1, 1999, exceed the amount calculated pursuant to subdivision (c).

(b) Subdivision (a) applies to, and includes, renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or

authorized sublessee for the entire period of his or her occupancy at the rental rate established for the initial hiring.

(c) The rental rate of a dwelling or unit whose initial rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established in accordance with this subdivision. Where the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of Code of Civil Procedure, an owner of residential real property may, no more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.

The initial rental rate established pursuant to this subdivision shall not be deemed to substitute for or replace increases in rental rates otherwise authorized pursuant to law.

(d) (1) Nothing in this section or any other provision of law shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet, and nothing in this section shall be construed to impair the obligations of contracts entered into prior to January 1, 1996.

(2) Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996.

(3) This subdivision shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this section shall be construed to enlarge or diminish an owner's right to withhold consent to a sublease or assignment.

(4) Acceptance of rent by the owner shall not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

(e) Nothing in this section shall be construed to affect any authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction.

(f) This section shall not apply to any dwelling or unit if all the following conditions are met:

(1) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the Health and Safety Code, excluding any violation caused by a disaster.

(2) The citation was issued at least 60 days prior to the date of the vacancy.

(3) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.

SEC. 3. Section 1954.535 is added to the Civil Code, to read:

1954.535. Where an owner terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for rent limitations to a qualified tenant, the tenant or tenants who were the beneficiaries of the contract or recorded agreement shall be given at least 90 days' written notice of the effective date of the termination and shall not be obligated to pay more than the tenant's portion of the rent, as calculated under the contract or recorded agreement to be terminated, for 90 days following receipt of the notice of termination of nonrenewal of the contract.

SEC. 4. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase,

organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the

aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 4.5. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 4.6. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of

housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the

person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 4.7. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful

under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 5. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful

under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) This section shall become operative on January 1, 2005.

SEC. 5.5. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that

indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry.

Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) This section shall become operative on January 1, 2005.

SEC. 5.6. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to

exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 5.7. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 6. (a) Sections 4.5 and 5.5 of this bill incorporate amendments to Section 12955 of the Government Code proposed by both this bill and SB 1148. Sections 4.5 and 5.5 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1148, in which case Sections 4, 4.6, 4.7, 5, 5.6, and 5.7 of this bill shall not become operative.

(b) Sections 4.6 and 5.6 of this bill incorporate amendments to Section 12955 of the Government Code proposed by both this bill and AB 1670. Sections 4.6 and 5.6 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1148 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1670, in which case Sections 4, 4.5, 4.7, 5, 5.5, and 5.7 of this bill shall not become operative.

(c) Sections 4.7 and 5.7 of this bill incorporate amendments to Section 12955 of the Government Code proposed by this bill, SB 1148, and AB 1670. Sections 4.7 and 5.7 shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bill amend Section 12955 of the Government Code, and (3) this bill is enacted after SB 1148 and AB 1670, in which case Sections 4, 4.5, 4.6, 5, 5.5, and 5.6 of this bill shall not become operative.

CHAPTER 591

An act to amend Section 51.5 of the Civil Code, and to amend Sections 11139, 12921, 12926, 12927, 12930, 12940, 12945, 12948, 12955, 12965, 12970, 12989.2, and 12989.3 of, and to add Section 12955 to, the Government Code, relating to discrimination.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known, and may be cited, as the California Civil Rights Amendments of 1999.

SEC. 2. Section 51.5 of the Civil Code is amended to read:

51.5. No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, or refuse to buy from, contract with, sell to, or trade with any person in this state because of the race, creed, religion, color, national origin, sex, or disability of the person or of the person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers, because the person is perceived to have one or more of those characteristics, or because the person is associated with a person who has, or is perceived to have, any of those characteristics.

As used in this section, "person" includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

This section shall not be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

SEC. 3. Section 11139 of the Government Code is amended to read:

11139. The prohibitions and sanctions imposed by this article are in addition to any other prohibitions and sanctions imposed by law.

This article shall not be interpreted in a manner that would frustrate its purpose.

This article shall not be interpreted in a manner that would adversely affect lawful programs which benefit the disabled, the aged, minorities, and women.

This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief.

SEC. 4. Section 12921 of the Government Code is amended to read:

12921. (a) The opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age is hereby recognized as and declared to be a civil right.

(b) The opportunity to seek, obtain, and hold housing without discrimination because of race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, or any other basis prohibited by Section 51 of the Civil Code is hereby recognized as and declared to be a civil right.

SEC. 5. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision thereof, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes (1) genetic characteristics, or (2) any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For purposes of this section, "genetic characteristics" means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or is determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 32 Cal.3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (P.L. 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(q) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(r) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 5.1. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a

special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision thereof, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and

construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 23 Cal.3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (P.L. 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(q) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(r) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons

employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 6. Section 12927 of the Government Code is amended to read:

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) "Discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) "Discrimination" does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within

the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e) of this section, and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

SEC. 7. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and any other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate and conciliate complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute those accusations before the commission.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 8. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based

upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) This part does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, where the employee, because of his or her physical or mental disability, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodations.

(2) This part does not prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam-era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of any person, to exclude,

expel, or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry of an employee or applicant, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, or any intent to make that limitation, specification or discrimination. Except as provided in the Americans with Disabilities Act of 1990 (P.L. 101-336) and the regulations adopted pursuant thereto, nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition, or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code, which prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(f) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age, to harass an employee, an applicant, or a person providing services pursuant to a contract. Harassment of an employee, an applicant, or a person providing services pursuant to a contract by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) This subdivision is declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision thereof, and cities. The definition of "employer" in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

(4) For purposes of this subdivision, "a person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

(i) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(j) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person

from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, and reasonable time necessary for travel prior and subsequent to a religious observance.

(k) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

(*l*) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

SEC. 9. Section 12945 of the Government Code is amended to read:

12945. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification:

(a) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(b) For any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions either:

(1) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including to take disability or sick leave or any other accrued leave that is made available by the employer to temporarily disabled employees. For purposes of this section, pregnancy, childbirth, and related medical conditions are

treated as any other temporary disability. However, no employer shall be required to provide a female employee disability leave on account of normal pregnancy, childbirth, or related medical condition for a period exceeding six weeks. This section shall not be construed to require an employer to provide his or her employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

(2) To take a leave on account of pregnancy for a reasonable period of time not to exceed four months. The employee shall be entitled to utilize any accrued vacation leave during this period of time. Reasonable period of time means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. This paragraph shall not be construed to limit the provisions of paragraph (1) of subdivision (b).

An employer may require any employee who plans to take a leave pursuant to this subdivision to give the employer reasonable notice of the date the leave shall commence and the estimated duration of the leave.

(c) (1) For any employer, including both employers subject to and not subject to Title VII of the federal Civil Rights Act of 1964, to refuse to provide reasonable accommodation for an employee for conditions related to pregnancy, childbirth, or related medical conditions, if she so requests, with the advice of her health care provider.

(2) For any employer, including both employers subject to and not subject to Title VII of the federal Civil Rights Act of 1964, who has a policy, practice, or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests.

(3) For any employer, including both employers subject to and not subject to Title VII of the federal Civil Rights Act of 1964, to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated. However, no employer shall be required by this section to create additional employment that the employer would not otherwise have created, nor shall the employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

(d) This section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth under any other provisions of this part, including subdivision (a) of Section 12940.

(e) Except for subdivision (c) and paragraph (2) of subdivision (b), this section is inapplicable to any employer subject to Title VII of the federal Civil Rights Act of 1964.

SEC. 10. Section 12948 of the Government Code is amended to read:

12948. It is an unlawful practice under this part for a person to deny or to aid, incite, or conspire in the denial of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of the Civil Code.

SEC. 11. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful

under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 11.1. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial

status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other

service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 11.2. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 11.3. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful

under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 11.4. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex,

marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 11.5. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and

conditions of a transaction, because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 12. Section 12965 of the Government Code is amended to read:

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation, or persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization, or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, that determination shall be made and shall be communicated in writing

within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person claiming to be aggrieved that the department shall issue, on his or her request, the right-to-sue notice. This notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization, or employment agency named in the verified complaint within one year from the date of that notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting HIV/AIDS discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice. The superior and municipal courts of the State of California shall have jurisdiction of those actions, and the aggrieved person may file in any of these courts. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any of these counties, an action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. Those actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees and costs, including expert witness fees, except where the action is filed by a public agency or a public official, acting in an official capacity.

(c) (1) If an accusation or amended accusation includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, the respondent may

within 30 days after service of the accusation or amended accusation, elect to transfer the proceedings to a court in lieu of a hearing pursuant to subdivision (a) by serving a written notice to that effect on the department, the commission, and the person claiming to be aggrieved. The commission shall prescribe the form and manner of giving written notice.

(2) No later than 30 days after the completion of service of the notice of election pursuant to paragraph (1), the department shall dismiss the accusation and shall, either itself or, at its election, through the Attorney General, file in the appropriate court an action in its own name on behalf of the person claiming to be aggrieved as the real party in interest. In this action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by his or her own counsel. Complaints filed pursuant to this section shall be filed in the appropriate superior or municipal court in any county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, or in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices. If the defendant is not found in any of these counties, the action may be brought within the county of the defendant's residence or principal office. Those actions shall be assigned to the court's delay reduction program, or otherwise given priority for disposition by the court in which the action is filed.

(3) A court may grant as relief in any action filed pursuant to this subdivision any relief a court is empowered to grant in a civil action brought pursuant to subdivision (b), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part. This relief may include a requirement that the employer conduct training for all employees, supervisors, and management on the requirements of this part, the rights and remedies of those who allege a violation of this part, and the employer's internal grievance procedures.

(4) The department may amend an accusation to pray for either damages for emotional injury or for administrative fines, or both, provided that the amendment is made within 30 days of the issuance of the original accusation.

SEC. 13. Section 12970 of the Government Code is amended to read:

12970. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring the respondent to cease and desist from the unlawful practice and to take action, including, but not limited to, any of the following:

(1) The hiring, reinstatement, or upgrading of employees, with or without backpay.

(2) The admission or restoration to membership in any respondent labor organization.

(3) The payment of actual damages as may be available in civil actions under this part, except as otherwise provided in this section. Actual damages include, but are not limited to, damages for emotional injuries if the accusation or amended accusation prays for those damages. Actual damages awarded under this section for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses shall not exceed, in combination with the amounts of any administrative fines imposed pursuant to subdivision (c), one hundred fifty thousand dollars ($150,000) per aggrieved person per respondent.

(4) Notwithstanding paragraph (3), the payment of actual damages up to one hundred fifty thousand dollars ($150,000) assessed against a respondent for a violation of Section 51.7 of the Civil Code, as an unlawful practice under this part.

(5) Affirmative or prospective relief to prevent the recurrence of the unlawful practice.

(6) A report to the commission as to the manner of compliance with the commission's order.

(b) An unlawful practice under this part alone is not sufficient to sustain an award of actual damages pursuant to this section. The department is required to prove, by a preponderance of the evidence, that an aggrieved person has sustained actual injury. In determining whether to award damages for emotional injuries, and the amount of any award for these damages, the commission shall consider relevant evidence of the effects of discrimination on the aggrieved person with respect to any or all of the following:

(1) Physical and mental well-being.

(2) Personal integrity, dignity, and privacy.

(3) Ability to work, earn a living, and advance in his or her career.

(4) Personal and professional reputation.

(5) Family relationships.

(6) Access to the job and ability to associate with peers and coworkers.

The commission shall also consider the duration of the emotional injury, and whether that injury was caused or exacerbated by an aggrieved person's knowledge of a respondent's failure to respond adequately to, or to correct, the discriminatory practice or by the egregiousness of the discriminatory practice.

(c) In addition to the foregoing, in order to vindicate the purposes and policies of this part, the commission may assess against the respondent, if the accusation or amended accusation so prays, an administrative fine per aggrieved person per respondent, the amount of which shall be determined in accordance with the combined amount limitation of paragraph (3) of subdivision (a).

(d) In determining whether to assess an administrative fine pursuant to this section, the commission shall find that the respondent has been guilty of oppression, fraud, or malice, expressed or implied, as required by Section 3294 of the Civil Code. In determining the amount of fines, the commission shall consider relevant evidence of, including, but not limited to, the following:

(1) Willful, intentional, or purposeful conduct.
(2) Refusal to prevent or eliminate discrimination.
(3) Conscious disregard for the rights of employees.
(4) Commission of unlawful conduct.
(5) Intimidation or harassment.
(6) Conduct without just cause or excuse.
(7) Multiple violations of the Fair Employment and Housing Act.

The moneys derived from an administrative fine assessed pursuant to this subdivision shall be deposited in the General Fund. No administrative fine shall be assessed against a public entity. The commission shall have no authority to award punitive damages as a remedy for a finding of employment discrimination.

(e) In addition to the foregoing, in order to vindicate the purposes and policies of this part, the commission may assess against the respondent if the accusation or amended accusation so prays, a civil penalty of up to twenty-five thousand dollars ($25,000) to be awarded to a person denied any right provided for by Section 51.7 of the Civil Code, as an unlawful practice prohibited under this part.

(f) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(g) If the commission finds that a respondent has not engaged in an unlawful practice under this part, the commission shall state its findings of fact and determination and issue and cause to be served on the parties an order dismissing the accusation as to that respondent.

(h) Any findings and determination made or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated therein.

(i) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

(j) If the commission finds that a respondent has engaged in an unlawful practice under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal Code, the commission, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

(k) Notwithstanding Section 12960, if the commission finds that a respondent has engaged in unlawful discrimination in housing under Section 12948, the remedies afforded in Section 12987 or any other provision in this part pertaining to housing discrimination, shall apply.

SEC. 14. Section 12989.2 of the Government Code is amended to read:

12989.2. In a civil action brought under Section 12989 or 12989.1, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award the plaintiff or complainant actual and punitive damages and may grant other relief, including the issuance of a temporary or permanent injunction, or temporary restraining order, or other order, as it deems appropriate to prevent any defendant from engaging in or continuing to engage in an unlawful practice. The court may, at its discretion, award the prevailing party, other than the state, reasonable attorney's fees and costs, including expert witness fees, against any party other than the state.

SEC. 15. Section 12989.3 of the Government Code is amended to read:

12989.3. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of denying to others the full enjoyment of any of the rights granted by this article, or that any group of persons has been denied any of the rights granted by this article and that denial raises an issue of general public importance, the Attorney General shall commence a civil action in any court.

(b) Upon referral from the department, the Attorney General may commence a civil action in any appropriate court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the department under subdivision (b) of Section 12981.

(c) A civil action under this section may be commenced not later than the expiration of 18 months after the date of the occurrence or termination of the alleged discriminatory housing practice.

(d) The Attorney General shall commence a civil action in any appropriate court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the department. A civil action shall be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach.

(e) The Attorney General, on behalf of the department or other party at whose request a subpoena is issued, under this article, shall enforce that subpoena in appropriate proceedings in the court for the judicial district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) In a civil action under this section, the court may award any of the following:

(1) Preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title.

(2) Other relief as the court deems appropriate, including monetary damages to persons aggrieved.

(3) A civil penalty in an amount not exceeding fifty thousand dollars ($50,000), for a first violation, and in an amount not exceeding one hundred thousand dollars ($100,000), for any subsequent violation.

(g) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the state, reasonable attorney's fees and costs, including expert witness fees, against any party other than the state.

(h) Upon timely application, any person may intervene in a civil action commenced by the Attorney General under this section that involves an alleged discriminatory housing practice with respect to which that person is an aggrieved person or a conciliation agreement to which that person is a party. The court may grant appropriate relief to any intervening party as is authorized to be granted to a plaintiff in a civil action under Section 12989.2.

SEC. 16. The amendments made by this act to Section 51.5 of the Civil Code and to Sections 12926, 12927, and 12955 of the Government Code do not constitute a change in, but are declaratory of existing law.

SEC. 17. Section 5.1 of this bill incorporates amendments to Section 12926 of the Government Code proposed by both this bill and SB 1185. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12926 of the Government Code, and (3) this bill is enacted after AB 1185, in which case Section 5 of this bill shall not become operative.

SEC. 18. (a) Sections 11.1 and 11.2 of this bill incorporate amendments to Section 12955 of the Government Code proposed by both this bill and SB 1098. Sections 11.1 and 11.2 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1148 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1098, in which case Sections 11, 11.3, 11.4, and 11.5, of this bill shall not become operative.

(b) Section 11.3 of this bill incorporates amendments to Section 12955 of the Government Code proposed by both this bill and SB 1148. Section 11.3 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 is not enacted or as enacted does not amend that section, and (4) this

bill is enacted after SB 1148, in which case Sections 11, 11.1, 11.2, 11.4, and 11.5 of this bill shall not become operative.

(c) Sections 11.4 and 11.5 of this bill incorporate amendments to Section 12955 of the Government Code proposed by this bill, SB 1098, and SB 1148. Sections 11.4 and 11.5 only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bill amend Section 12955 of the Government Code, and (3) this bill is enacted after SB 1148 and AB 1670, in which case Sections 11, 11.1, 11.2, and 11.3, and of this bill shall not become operative.

CHAPTER 592

An act to amend Sections 12920, 12921, 12926, 12930, 12931, 12935, 12940, 12944, 12955.8, and 12993 of, and to amend, repeal, and add Section 12955 to, the Government Code, and to repeal Section 1102.1 of the Labor Code, relating to fair employment and housing.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. It is the intent of the Legislature that the purpose of this act is to incorporate in the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) the prohibition against discrimination or different treatment in any aspect of employment or opportunity for employment based on sexual orientation, contained in Section 1102.1 of the Labor Code, as that section read on December 31, 1999. As was the intent of Section 1102.1 of the Labor Code, as that section read on December 31, 1999, this act is intended to codify the court decisions in Gay Law Students v. Pacific Telephone and Telegraph (1979) 24 Cal.3d 458 and Soroka v. Dayton Hudson Corp. (1991) 235 Cal.App.3d 654, prohibiting discrimination based on sexual orientation. Any conduct that would have been a violation of Section 1102.1 of the Labor Code, as it read on December 1, 1999, shall be deemed a violation of this act. Nothing in this section is intended to alter the definition of employer with regard to any bona fide scouting organization covered under Section 1102.1 of the Labor Code as it read on December 1, 1999.

SEC. 1.5. Section 12920 of the Government Code is amended to read:

12920. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed,

color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interest of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, or sexual orientation in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies that will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 2. Section 12921 of the Government Code is amended to read:

12921. The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation is hereby recognized as and declared to be a civil right.

SEC. 2.5. Section 12921 of the Government Code is amended to read:

12921. (a) The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation is hereby recognized as and declared to be a civil right.

(b) The opportunity to seek, obtain, and hold housing without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or any other basis prohibited by Section 51 of the Civil Code is hereby recognized as and declared to be a civil right.

SEC. 3. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

(1) "Employer" does not include a religious association or corporation not organized for private profit.

(2) "Employer," for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances,

terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes (1) genetic characteristics, or (2) any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For purposes of this section, "genetic characteristics" means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or is determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 32 Cal.3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(n) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(o) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(p) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(q) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the

geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 3.5. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes (1) genetic characteristics, or (2) any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For purposes of this section, "genetic characteristics" means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or is determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 32 Cal. 3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(q) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(r) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(s) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 3.6. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

(1) "Employer" does not include a religious association or corporation not organized for private profit.

(2) "Employer," for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased

risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 32 Cal. 3d 603. However, "physical disability" does not include conditions excluded from the federal definition of

"disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(n) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(o) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(p) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(q) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 3.7. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" includes either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. However, "mental disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a mental disability.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits an individual's ability to participate in major life activities.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Being regarded as having or having had a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2).

(4) Being regarded as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

It is the intent of the Legislature that the definition of "physical disability" in this subdivision shall have the same meaning as the term "physical handicap" formerly defined by this subdivision and construed in American National Ins. Co. v. Fair Employment & Housing Com. (1982) 32 Cal. 3d 603. However, "physical disability" does not include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C., Sec. 12211). Additionally, for purposes of this part, the unlawful use of controlled substances or other drugs shall not be deemed, in and of itself, to constitute a physical disability.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(q) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(r) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(s) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 4. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers, and duties:

(a) To establish and maintain a principal office and any other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate, and conciliate complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and

procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute those accusations before the commission.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, ancestry, familial status, disability, or sexual orientation.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 4.5. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers, and duties:

(a) To establish and maintain a principal office and any other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate, and conciliate complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 , 51.5, 51.7, 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(h) To issue accusations pursuant to Section 12965 or 12981 and to prosecute those accusations before the commission.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, marital status, national origin, ancestry, familial status, disability, or sexual orientation.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 5. Section 12931 of the Government Code is amended to read:

12931. The department may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, familial status, age, or sexual orientation that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state. The services of the department may be made available in cases of these disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The department's services are to be made available only upon the request

of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the department pursuant to this section shall be limited to endeavors at investigation, conference, conciliation, and persuasion.

SEC. 6. Section 12935 of the Government Code is amended to read:

12935. The commission shall have the following functions, powers, and duties:

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations, and standards (1) to interpret, implement, and apply all provisions of this part, (2) to regulate the conduct of hearings held pursuant to Sections 12967 and 12980, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Sections 12967 and 12981.

(c) To establish and maintain a principal office within the state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, and any attorneys and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create or provide financial or technical assistance to any advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and to empower them to study the problems of discrimination in all or specific fields of human relationships or in particular instances of employment discrimination on the bases enumerated in this part or in specific instances of housing discrimination because of race, religious creed, color, national origin, ancestry, familial status, disability, marital status, sex, or sexual orientation and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. These advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) With respect to findings and orders made pursuant to this part, to establish a system of published opinions that shall serve as precedent in interpreting and applying the provisions of this part. Commission findings, orders, and opinions in an adjudicative proceeding are subject to Section 11425.60.

(i) To issue publications and results of inquiries and research that in its judgment will tend to promote good will and minimize or

eliminate unlawful discrimination. These publications shall include an annual report to the Governor and the Legislature of its activities and recommendations.

(j) Notwithstanding Sections 11370.3 and 11502, to appoint hearing officers, as it may deem necessary, to conduct hearings. Each hearing officer shall possess the qualifications established by the State Personnel Board for the particular class of position involved.

SEC. 7. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, where the employee, because of his or her physical or mental disability, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health and safety of others even with reasonable accommodations.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of any person, to exclude, expel or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation, or any intent to make any such limitation, specification, or discrimination. Except as provided in the Americans with Disabilities Act of 1990 (Public Law 101-336) and the regulations adopted pursuant thereto, nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition, or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a

determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code that prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(f) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, to harass an employee or applicant. Harassment of an employee or applicant by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

(4) For other types of discrimination as enumerated in subdivision (a), an employer remains as defined in subdivision (d) of Section 12926.

(5) Nothing contained in this subdivision shall be construed to apply the definition of employer found in this subdivision to subdivision (a).

(i) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(j) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, and reasonable time necessary for travel prior and subsequent to a religious observance.

(k) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

(*l*) Initial application of this section to discrimination by employers on the basis of mental disability shall be in accordance with the following schedule:

(1) Commencing January 1, 1993, for employers with 25 or more employees, the state, and its municipalities and political subdivisions.

(2) Commencing July 26, 1994, for all other employers specified in paragraph (2) of the subdivision of Section 12926 that defines "employer."

SEC. 7.5. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select

the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) This part does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, where the employee, because of his or her physical or mental disability, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodations.

(2) This part does not prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam-era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of any person, to exclude, expel or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of the

person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry of an employee or applicant, either verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation, or any intent to make any such limitation, specification or discrimination. Except as provided in the Americans with Disabilities Act of 1990 (Public Law 101-336) and the regulations adopted pursuant thereto, nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition, or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code that prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(f) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability,

mental disability, medical condition, marital status, sex, age, or sexual orientation, to harass an employee , an applicant, or a person providing services pursuant to a contract. Harassment of an employee , an applicant, or a person providing services pursuant to a contract by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of "employer" in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

(4) For purposes of this subdivision, "a person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

(i) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(j) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a

conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, and reasonable time necessary for travel prior and subsequent to a religious observance.

(k) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

(*l*) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

SEC. 8. Section 12944 of the Government Code is amended to read:

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, age, medical condition, physical disability, mental disability, or sexual orientation, unless the practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on the examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by the examination or by a license issued in reliance on the examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition.

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the commission, to print or

circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual orientation or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

(d) It is unlawful for a licensing board to discriminate against any person because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(e) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of the applications.

(f) As used in this section, "licensing board" means any state board, agency, or authority in the State and Consumer Services Agency that has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

SEC. 9. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to

discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7

(commencing with Section 65000)), that make housing opportunities unavailable.

SEC. 9.1. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective

entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 9.2. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national

origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 9.3. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a

statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

SEC. 9.4. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 9.5. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 9.6. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital

status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(n) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(o) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(p) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 9.7. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital

status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(o) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 9.8. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) This section shall become operative on January 1, 2005.

SEC. 9.81. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 9.82. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any

person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) This section shall become operative on January 1, 2005.

SEC. 9.83. Section 12955 is added to the Government Code, to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, disability, or national origin.

(*l*) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a

statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) This section shall become operative on January 1, 2005.

SEC. 10. Section 12955.8 of the Government Code is amended to read:

12955.8. For purposes of this article, in connection with unlawful practices:

(a) Proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part. A person intends to discriminate if race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. An intent to discriminate may be established by direct or circumstantial evidence.

(b) Proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. A business establishment whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the business establishment can establish that the action or inaction is necessary to the operation of the business and effectively carries out the significant business need it is alleged to serve. In cases that do not involve a business establishment, the person whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the person can establish that the action or inaction is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve.

(1) Any determination of a violation pursuant to this subdivision shall consider whether or not there are feasible alternatives that would equally well or better accomplish the purpose advanced with a less discriminatory effect.

(2) For purposes of this subdivision, the term "business establishment" shall have the same meaning as in Section 51 of the Civil Code.

SEC. 11. Section 12993 of the Government Code is amended to read:

12993. (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes of this part. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, unless those provisions provide less protection to the enumerated classes of persons covered under this part.

(b) Nothing contained in this part relating to discrimination in employment on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided the terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment and housing encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment and housing by any city, city and county, county, or other political subdivision of the state, nothing contained in this part shall be construed, in any manner or way, to limit or restrict the application of Section 51 of the Civil Code.

SEC. 12. Section 1102.1 of the Labor Code is repealed.

SEC. 13. Section 2.5 of this bill incorporates amendments to Section 12921 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12921 of the Government Code, and (3) this bill is enacted after AB 1670, in which case Section 2 of this bill shall not become operative.

SEC. 14. (a) Section 3.5 of this bill incorporates amendments to Section 12926 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12926 of the Government Code, (3) SB 1185 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1670, in which case Sections 3, 3.6, and 3.7 of this bill shall not become operative.

(b) Section 3.6 of this bill incorporates amendments to Section 12926 of the Government Code proposed by both this bill and SB 1185. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12926 of the Government Code, (3) AB 1670 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1185, in which case Sections 3, 3.5, and 3.7 of this bill shall not become operative.

(c) Section 3.7 of this bill incorporates amendments to Section 12926 of the Government Code proposed by this bill, AB 1670, and SB

1185. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bills amend Section 12926 of the Government Code, and (3) this bill is enacted after AB 1670 and SB 1185, in which case Sections 3, 3.5, and 3.6 of this bill shall not become operative.

SEC. 15. Section 4.5 of this bill incorporates amendments to Section 12930 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12930 of the Government Code, and (3) this bill is enacted after AB 1670, in which case Section 4 of this bill shall not become operative.

SEC. 16. Section 7.5 of this bill incorporates amendments to Section 12940 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12940 of the Government Code, and (3) this bill is enacted after AB 1670, in which case Section 7 of this bill shall not become operative.

SEC. 17. (a) Section 9.1 of this bill incorporates amendments to Section 12955 of the Government Code proposed by both this bill and AB 1670. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1098 and SB 1148 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1670, in which case Sections 9, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.81, 9.82, and 9.83 of this bill shall not become operative.

(b) Sections 9.2 and 9.8 of this bill incorporate amendments to Section 12955 of the Government Code proposed by both this bill and SB 1098. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 and SB 1148 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1098, in which case Sections 9, 9.1, 9.3, 9.4, 9.5, 9.6, 9.7, 9.81, 9.82, and 9.83 of this bill shall not become operative.

(c) Section 9.3 of this bill incorporates amendments to Section 12955 of the Government Code proposed by both this bill and SB 1148. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 and SB 1098 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1148, in which case Sections 9, 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, 9.8, 9.81, 9.82, and 9.83 of this bill shall not become operative.

(d) Sections 9.4 and 9.81 of this bill incorporate amendments to Section 12955 of the Government Code proposed by this bill, AB 1670, and SB 1098. It shall only become operative if (1) all three bills are

enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1148 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1670 and SB 1098, in which case Sections 9, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.82, and 9.83 of this bill shall not become operative.

(e) Section 9.5 of this bill incorporates amendments to Section 12955 of the Government Code proposed by this bill, AB 1670, and SB 1148. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) SB 1098 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1670 and SB 1148, in which case Sections 9, 9.1, 9.2, 9.3, 9.4, 9.6, 9.7, 9.8, 9.81, 9.82, and 9.83 of this bill shall not become operative.

(f) Sections 9.6 and 9.82 of this bill incorporates amendments to Section 12955 of the Government Code proposed by this bill, SB 1098, and SB 1148. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, (3) AB 1670 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1098 and SB 1148, in which case Sections 9, 9.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.81, and 9.83 of this bill shall not become operative.

(g) Sections 9.7 and 9.83 of this bill incorporate amendments to Section 12955 of the Government Code proposed by this bill, AB 1670, SB 1098, and SB 1148. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12955 of the Government Code, and (3) this bill is enacted after AB 1670, SB 1098, and SB 1148, in which case Sections 9, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.8, 9.81, and 9.82 of this bill shall not become operative.

CHAPTER 593

An act to add Article 7 (commencing with Section 89260) to Chapter 2 of Part 55 of the Education Code, relating to the California State University, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 7 (commencing with Section 89260) is added to Chapter 2 of Part 55 of the Education Code, to read:

Article 7. Kenneth L. Maddy Institute

89260. The Kenneth L. Maddy Institute is hereby established as a part of the public administration program of the College of Social Sciences at California State University, Fresno. The Kenneth L. Maddy Institute shall provide training for leadership in government, and shall prepare students and elected officials for public service in the tradition established by The Honorable Kenneth L. Maddy during his more than 25 years of service to the citizens of California.

89260.3. It is the intent of the Legislature that the institute provide public leadership training in two primary areas:

(a) Students nearing completion of the requirements for a bachelor of arts degree or for a master's degree shall be eligible for internships with local, state, and federal government officials without regard to political party affiliation. The internship experience shall provide students with the opportunity to develop public leadership skills while gaining practical knowledge of the day-to-day operations of government and the political process.

(b) The institute shall develop and sponsor seminars, extension courses, and symposia on topics directly related to public administration in local and state government. The institute shall serve as a nonpartisan training center to provide elected officials with practical, intensive, and convenient instruction in topics such as public finance, staff administration, budget planning, drafting of legislation, and the legislative process. The institute shall issue certificates for completion of course and program modules.

89260.5. Instruction at the institute shall be provided by the faculty of the public administration or political science programs at California State University, Fresno, supplemented by frequent, in-depth discussions with active and retired appointed and elected public officials, and shall include an oral history element. It is the intent of the Legislature that the institute shall specifically seek to sponsor regular roundtable discussions among experienced elected officials on topics related to public administration, emerging public policy, and legislation in their areas of government service.

89260.7. The institute and its curriculum shall be directed by the Kenneth L. Maddy Professor of Public Administration at California State University, Fresno, under the direction of the Dean of the College of Social Sciences at California State University, Fresno. It is the intent of the Legislature that the professor be a specialist in public administration or political science, with a particular interest and expertise in state government.

SEC. 2. The sum of one million one hundred thousand dollars ($1,100,000) is hereby appropriated from the General Fund, for expenditure, without regard to fiscal year, to the Trustees of the California State University, for allocation as an endowment for the Kenneth L. Maddy Institute established pursuant to Article 7

(commencing with Section 89260) of Chapter 2 of Part 55 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 that the Kenneth L. Maddy Institute may be established as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 594

An act to add Section 5073 to the Vehicle Code, relating to vehicles.

[Approved by Governor October 4, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 5073 is added to the Vehicle Code, to read:

5073. (a) The department, in consultation with the Ronald Reagan Presidential Foundation, shall design and make available for issuance pursuant to Section 5060 Ronald Reagan Presidential Library special interest license plates that may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plate. Any person described in Section 5101, upon payment of the additional fee or fees set forth in subdivision (b), may apply for and be issued a set of these special interest license plates.

(b) In addition to the regular fees for an original registration, renewal of registration, or transfer or substitution of the license plates, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the special interest license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates, or the retention of the plates if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108, which shall be deposited in the Environmental License Plate Fund.

(c) Except as provided in paragraph (5) of subdivision (b), all fees collected under this section shall, after deduction of the department's costs in administering this section, be deposited into the Ronald Reagan Presidential Library Account, which is hereby created in the

General Fund. The funds in the account shall be used by the Ronald Reagan Presidential Foundation, upon appropriation by the Legislature to the Controller for allocation to the foundation, to fund the Ronald Reagan Presidential Library.

CHAPTER 595

An act to amend Section 3212.1 of the Labor Code, relating to workers' compensation.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) This section applies to active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments: (1) a fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision, (2) a fire department of the University of California and the California State University, (3) the Department of Forestry and Fire Protection, and (4) a county forestry or firefighting department or unit. This section also applies to peace officers, as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, who are primarily engaged in active law enforcement activities.

(b) The term "injury," as used in this division, includes cancer, including leukemia, that develops or manifests itself during a period in which any member described in subdivision (a) is in the service of the department or unit, if the member demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or as defined by the director.

(c) The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. Unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any

circumstance, commencing with the last date actually worked in the specified capacity.

(e) The amendments to this section enacted during the 1999–2000 Regular Session shall be applied to claims for benefits filed or pending on or after January 1, 1997, including, but not limited to, claims for benefits filed on or after that date that have previously been denied, or that are being appealed following denial.

CHAPTER 596

An act to add and repeal Chapter 11 (commencing with Section 15399.45) of Part 6.7 of Division 3 of Title 2 of, and to repeal Chapter 1.9 (commencing with Section 65055) of Division 1 of Title 7 of, the Government Code, and to amend Sections 50832 and 50834 of the Health and Safety Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The July 1998 report by the Assembly Committee on Rural Economic Development, entitled "Growing the Economy: Solutions for Rural California," found that the state must improve technical assistance to help local governments access existing resources to address rural issues.

(b) The report also found that the state must develop a highly visible, easily accessible clearinghouse to disseminate critically needed program information.

(c) A subcommittee of the state's Community Development Block Grant Program Working Group identified the need for technical assistance and additional resources to coordinate the myriad of state, local, and federal programs directed to rural California, and the need to investigate alternative service delivery systems for existing state funding programs and services.

SEC. 2. Chapter 11 (commencing with Section 15399.45) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 11. RURAL ASSISTANCE

Article 1. California Rural Policy Task Force

15399.45. (a) The California Rural Policy Task Force is hereby established within the Office of Planning and Research in the

Governor's office, to be composed of the following state officers, or their representatives:

(1) The Secretary of Health and Human Services.

(2) The Secretary of Resources.

(3) The Secretary of Trade and Commerce.

(4) The Director of Housing and Community Development.

(5) The Director of Transportation.

(6) The Director of Food and Agriculture.

(7) The Lieutenant Governor.

(b) The agencies and departments represented on the task force shall provide, from existing resources, staff for the work of the task force as necessary.

(c) The task force shall oversee the mobilization and effective delivery of the state's resources to rural California. The task force shall establish both ad hoc and standing advisory committees, which shall include representatives of cities and counties representing a range of rural populations from various geographic regions of the state, and shall hold public hearings in rural areas in various geographic regions for these purposes.

(d) The task force shall work with the Department of Housing and Community Development to study the process for disbursing community development block grant funds. The task force shall include among the issues to be studied the efficiency and effectiveness of the technical assistance programs funded pursuant to Section 50833, including any recommendations on how best to use any surplus technical assistance funds that remain unallocated, and the best mechanism to address any existing unmet needs for technical assistance. The task force and the department shall request input from cities and counties representing a range of rural populations in various geographic regions of the state, and shall provide them with an opportunity to comment on any proposed changes to the method of disbursement of community development block grant funds. Notwithstanding Section 7550.5, by July 1, 2000, the task force shall report to the Legislature on the effective delivery of community development block grant funds, and, as necessary, propose recommendations to ensure the fair and equitable disbursal of those funds to all eligible jurisdictions.

(e) Notwithstanding Section 7550.5, the task force shall report annually to the Governor and the Legislature on its efforts in implementing this section.

15399.46. (a) Each agency or department represented on the task force shall develop by July 1, 2000, a plan that identifies programs and resources that can be targeted for rural areas in respect to the activities of that agency or department.

(b) Each plan shall do all of the following:

(1) Identify the economic and community development problems and opportunities facing communities in the area serviced by the agency or department.

(2) Set forth the goals and objectives for taking advantage of the opportunities for solving the economic, social, and community development problems of the area serviced by the agency or department.

(3) Identify all agencies and departments with significant program or funding responsibility for rural economic or community development.

(4) Develop a plan of action, including identifying local agencies that may assist the agency or department in effectively serving rural areas, to consolidate and coordinate the activities of the programs identified in paragraph (3).

(c) The task force shall disseminate preliminary plans for public comment and, to the fullest extent possible, hold public hearings in rural communities and solicit comments from all affected cities and counties, and organizations whose purpose is economic and community development, to assist the agencies and departments in finalizing their plans.

Article 2. Rural California Technical Assistance Program

15399.47. (a) The Rural California Technical Assistance Program is hereby established in the Trade and Commerce Agency. The program shall serve two regions, including the North Coast and the northern San Joaquin Valley, as determined by the agency.

(b) The program shall contract with public or private nonprofit organizations to provide technical assistance to local governments and tribal governments in accessing resources from a broad range of funding sources, including state, federal, and local sources, and including grant and loan funds, and in the preparation of applications and other documents, as may be required. Each contractor shall be selected by the Trade and Commerce Agency following a competitive application process and shall serve a defined region and occupy office space with a local agency, as determined by the contract provisions, and shall be responsible for serving their region, including outlying communities within the region.

(c) To the extent feasible, the program shall utilize the expertise available in, and contract with, locally based technical assistance experts from nonprofit or local organizations to build long-term capacity throughout rural California.

(d) Each of the two regional contracts under this section shall be for fifty thousand dollars ($50,000).

(e) The agency shall establish baseline criteria for evaluating the program, and shall conduct an evaluation of program effectiveness in each of the two project areas and an evaluation of how the program would work in the remaining rural regions of the state. The evaluation shall be completed on January 1, 2002.

Article 3. Duration

15399.48. This chapter shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends that date.

SEC. 3. Chapter 1.9 (commencing with Section 65055) of Division 1 of Title 7 of the Government Code is repealed.

SEC. 4. Section 50832 of the Health and Safety Code is amended to read:

50832. (a) In order to ensure that a city or county may apply for both economic development and general program grants pursuant to this chapter in the same year, each applicant shall have a maximum grant request limitation of eight hundred thousand dollars ($800,000) per year, excluding general allocation planning and technical assistance grants and economic development allocation planning and technical assistance grants made available under Section 50833, of which a maximum of five hundred thousand dollars ($500,000) per year may be used for either housing or economic development applications. These limitations may be waived for the economic development allocation based upon available economic development funds after September 1 of each year. The department shall aggressively inform eligible cities and counties of the eligibility criteria and requirements under this section and in Section 50833.

(b) Except for applications specified in Section 50832.1, applications for all activities or set-asides under this section and Section 50833 shall be evaluated on a first-in, first-served basis.

(c) For all economic development applications under this section or Section 50833, including economic development assistance grants, the department shall develop project standards and rating factors which meet the minimum requirements of federal statutes, including a jobs-for-dollars test of thirty-five thousand dollars ($35,000) per job created or retained. In addition to the low- and moderate-income persons or families criteria established in subdivision (b) of Section 50826 and Sections 50827 and 50828, the department shall also utilize as criteria for the economic development allocation the federal standards of "blight" and "urgent need" under this section, Section 50832.1, and Section 50833.

(d) A jurisdiction may submit multiyear proposals for a period not exceeding three years in duration.

SEC. 5. Section 50834 of the Health and Safety Code is amended to read:

50834. (a) The department shall prepare a separate and discrete training manual and request for proposal for the economic development set-aside. The department shall ensure that it can respond to requests for grants as rapidly as possible. Once an economic development project award is approved by the director, a contract shall be executed and funds made available as soon as possible.

(b) Any program income received by a city or county grantee, or any loan repayments made by a beneficiary to a grantee, may be utilized by the city or county grantee for any activity currently eligible under federal law and regulations, provided that the department determines that the beneficiary or grantee has complied reasonably with the terms and conditions described in the contract between the grantee and the department.

(c) Any economic development set aside of funds not encumbered for funding of a project by the end of the federal contract period shall revert to the general program and be set aside for use if approved projects for which no funds are available are pending.

(d) The department shall conditionally commit economic development allocations to projects that meet the requirements of this chapter up front, contingent upon the applicant receiving those other funding commitments necessary to complete the project.

(e) Reports on Community Development Block Grants activity shall be submitted annually by the department to the chairs of the appropriate legislative committees and to the Trade and Commerce Agency.

SEC. 6. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund to the Trade and Commerce Agency for the purposes of Section 15399.47 of the Government Code.

CHAPTER 597

An act to add Article 7 (commencing with Section 15373.100) to Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of, and to repeal Chapter 1.9 (commencing with Section 65055) of Division 1 of Title 7 of, the Government Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) According to the United States Bureau of the Census, California has 2.1 million rural residents, representing 7 percent of the state's total population. California has the eighth largest rural population in the nation, and its rural population is greater than the total population of 17 states. Outside of California's four major metropolitan areas, the majority of the state's geography is rural.

(b) Rural areas of California offer more open space, more natural recreational facilities, less congestion and pollution, and closer-knit communities than urban areas.

(c) While rural areas of California have a lower cost of living than urban areas, residents of rural areas also have lower incomes, and are more likely to be unemployed than are residents of urban areas.

(d) In general, the population of California's rural counties contains a much larger percentage of both children ages 14 years and younger and adults ages 45 years and older than do the populations of urban counties. Consequently, rural areas have more elderly residents and children than do urban areas.

(e) California is a relatively wealthy state, yet most of its wealth is concentrated in its urbanized areas. The average per capita income of California's rural counties in 1989 was fifteen thousand four hundred thirty dollars ($15,430), only 94 percent of the state's per capita income of sixteen thousand four hundred nine dollars ($16,409).

(f) Unemployment rates in nonurban and nonmetropolitan areas of California are significantly higher than the state average based on 1990 United States Census data. These rates, averaged across regions, mask even higher unemployment rates at local levels and during winter months when unemployment is highest. In addition, the gap between metropolitan and nonmetropolitan unemployment has remained stable in recent years.

(g) Based on the average wage per job in 1990, those who are able to find employment in rural areas earn significantly less than those in similar positions in urban areas.

(h) Despite these grim statistics, based on a low labor force participation rate there is strong potential for economic growth in rural areas.

(i) The Legislature recognizes the need for the state to create a California Rural Development Council to advocate and recommend programs that foster community sustainability and economic development initiatives in rural, nonurban, and nonmetropolitan areas of California.

SEC. 2. (a) It is the intent of the Legislature in enacting this act to provide statutory authority for the Rural Development Council, which exists within the Trade and Commerce Agency for the following purposes:

(1) Improving communication between state and federal agencies and rural areas, and providing a forum for the discussion of issues related to rural development.

(2) Coordinating the efforts of state and federal agencies in working with local and tribal governments and the private sector in matters related to rural development.

(3) Recommending policies, strategies, and programs to address the needs of rural California.

(4) Providing advice to California state agencies on issues affecting rural California.

(b) It is further the intent of the Legislature that the Rural Development Council shall be established outside of state government as a separate, private nonprofit corporation upon meeting the following criteria:

(1) The council becomes a member of the United States Department of Agriculture National Rural Development Partnership.

(2) The council conducts a feasibility analysis and, notwithstanding Section 7550.5 of the Government Code, submits a report to the Legislature no later than January 1, 2003, that outlines a process for incorporating as a private nonprofit corporation, demonstrating fiscal and legal accountability, organizational capacity, leadership, and staffing, and support of partners and stakeholders.

(3) The council has secured funding in support of rural program development from various sources, including, but not limited to, federal, state, and local government, or private entities.

SEC. 3. Article 7 (commencing with Section 15373.100) is added to Chapter 2.5 of Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

Article 7. Rural Development Council

15373.100 (a) The Rural Development Council, within the Trade and Commerce Agency, shall have the authority and duties specified in this article. The council shall advocate and recommend programs that foster community sustainability and community and economic development initiatives in rural, nonurban, and nonmetropolitan areas of California.

(b) The mission of the council shall be to provide a voice for the needs and interests of rural residents and businesses in a comprehensive and collaborative manner. Further, it shall be the mission of the council to support and encourage local decisionmaking efforts to improve the quality of life in rural areas.

(c) During the first five years after enactment of this article, the council shall minimally consider addressing the following issues and concerns of rural areas:

(1) Methods of increasing available financing for small and medium-sized businesses, agricultural enterprises, residential development, essential public facilities, and infrastructure.

(2) Encouraging the development of new domestic and foreign marketing opportunities for manufacturing, service, and agricultural enterprises.

(3) An analysis of the impact that the lack of health care has on the development and expansion of businesses, senior citizens, and children.

(4) Examples of successful programs that enhance the viability of agricultural enterprises located in the agricultural and urban interface.

15373.101. For purposes of this article, "rural development" means economic and community development activities that address the specific needs of rural, nonurban, and nonmetropolitan areas. Rural development shall include, but not be limited to, issues and concerns of agriculture, manufacturing, and other business enterprises; health care; housing; infrastructure; law enforcement; fire safety; public health; and education.

15373.102. The council shall represent a wide range of rural interests and geographic areas from across the state. In making appointments pursuant to Sections 15373.103, 15373.104, and 15373.105, the appointing authorities shall, to the greatest extent possible, appoint members who represent a fair geographic distribution of the state.

15373.103. (a) The Governor shall appoint 10 members to the council, each of whom shall have expertise in one or more of the following areas as it relates to rural, nonurban, or nonmetropolitan communities:

(1) Small business.

(2) Agriculture, which may include crop production or range management.

(3) Manufacturing.

(4) Law enforcement.

(5) Native American affairs.

(6) Forestry.

(7) Fisheries.

(8) Water.

(9) Land use planning.

(10) Local government.

(b) At least four members appointed by the Governor shall represent a nonprofit organization from a rural, nonurban, or nonmetropolitan community.

15373.104. (a) The Speaker of the Assembly shall appoint five public members to the council, each of whom shall have expertise in one of the following areas as it relates to rural, nonurban, or nonmetropolitan communities:

(1) Banking or lending.

(2) Human services or social services.

(3) Economic development.

(4) Transportation.

(5) Health.

(b) No public member appointed by the Speaker of the Assembly shall have expertise in the same area as any other appointed member. At least two members appointed by the Speaker of the Assembly shall represent a nonprofit organization from a rural, nonurban, or nonmetropolitan community.

(c) The Speaker of the Assembly shall also appoint two Members of the Assembly from different political parties as nonvoting advisory members of the council.

15373.105. (a) The Senate Committee on Rules shall appoint five public members to the council, each of whom shall have expertise in one of the following areas as it relates to rural, nonurban, or nonmetropolitan communities:

(1) Education.

(2) Farmworker labor.

(3) The environment or natural resources.

(4) Housing.

(5) Telecommunications or information technology.

(b) No public member appointed by the Senate Committee on Rules shall have expertise in the same area as any other appointed member. At least two members appointed by the Senate Committee on Rules shall represent a nonprofit organization from a rural, nonurban, or nonmetropolitan community.

(c) The Senate Committee on Rules shall also appoint two Members of the Senate from different political parties as nonvoting advisory members of the council.

15373.106. (a) The state director of the United States Department of Agriculture, Rural Development, shall be urged to sit as a federal government representative to the council. The state director shall be a voting member of the council.

(b) (1) Members of the council representing state government may include the following:

(A) The executive director of the Governor's Rural Development Advisory Committee.

(B) The Secretary of Trade and Commerce.

(C) The Director of Housing and Community Development.

(D) The Governor's Rural Health Policy Council adviser.

(E) The Superintendent of Public Instruction.

(F) The Secretary of Agriculture.

(G) The Secretary of Business, Transportation and Housing.

(H) Any other representatives of state government, to be appointed by the Governor as he or she deems necessary.

(2) These state government members may have no more than three votes collectively, regardless of how many serve.

(c) (1) Members of the council representing the federal government may include, but need not be limited to, the following:

(A) The Region IX representative for the federal Department of Education.

(B) The Region IX representative for the federal Economic Development Agency.

(C) The Region IX representative for the federal Department of Housing and Urban Development.

(D) The Region IX representative for the Federal Emergency Management Agency.

(E) The Region IX representative for the federal Department of Health and Human Services.

(F) The Region IX representative for the Environmental Protection Agency.

(G) The Region IX representative for the United States Forest Service.

(H) Any other federal government representatives who wish to participate.

(2) These federal government members may have no more than three votes collectively, regardless of how many serve.

(d) The council may add ex officio, nonvoting members as it deems appropriate.

15373.107. Members appointed by the Governor pursuant to Section 15373.103, and by the Speaker of the Assembly and the Senate Committee on Rules may represent the private sector, local government, state government, the federal government, academia, nonprofit organizations, Indian tribes, trade or labor associations, community groups, or any other group that has provided the member with an expertise in his or her particular area.

15373.108. (a) All members of the council shall serve for two-year terms, except that five of the initial members appointed by the Governor, two of the initial members appointed by the Speaker of the Assembly, and three of the initial members appointed by the Senate Committee on Rules shall each serve a one-year term.

(b) Legislative members shall serve for two-year terms.

(c) There is no limitation on the number of terms that may be served by any member.

(d) Members may only be removed from the council by their appointing authority for reasonable cause. For purposes of this article, reasonable cause shall include, but is not limited to, conviction of a felony, physical inability to carry out the requirements and responsibilities of the office, neglect of duty, misconduct, or malfeasance in office.

15373.109. The Secretary of Trade and Commerce shall serve as chairperson of the council. The council shall annually select a vice chairperson from among its members for a one-year term. There is no limitation on the number of terms that may be served by a vice chair.

15373.110. (a) (1) The council shall meet at least biannually and at any additional time that the chairperson or a majority of the council deems necessary to fulfill the function and operations of the council.

(2) Meetings shall rotate to different locations across the state. Pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1, all meetings shall be open to the public and shall include provisions for public comment.

(3) (A) Council members shall be compensated for appropriate and necessary travel expenses, consistent with state guidelines for

reimbursed travel expenses for nonrepresented excluded employees.

(B) It is the intent of the Legislature that an annual appropriation of thirty thousand dollars ($30,000) be made for reimbursement costs under this paragraph.

(b) A quorum shall be 11 of the 21 voting members appointed pursuant to Sections 15373.103, 15373.104, and 15373.105. For the initial meeting and the two subsequent meetings a quorum of the council need not be present.

(c) The council shall adopt bylaws outlining its operations and procedures within six months of their first meeting.

(d) The first meeting of the council shall be called by March 1, 2000. The Secretary of Trade and Commerce, as chairperson, shall convene the initial meeting. Subsequent meetings shall be at times and locations agreed upon by a majority of the voting members of the council.

15373.111. The council shall do all of the following:

(a) Focus attention on, and increase public awareness of, the opportunities and needs of Californians living and working in rural, nonurban, and nonmetropolitan communities.

(b) Advocate for rural California by proposing solutions to challenges facing rural, nonurban, and nonmetropolitan communities across this state.

(c) Strengthen community sustainability and growth in rural, nonurban, and nonmetropolitan California through increased community-based wealth creation, expanded economic opportunity, and improved quality of life.

(d) Stimulate rural development innovation and foster the transfer of information to, from, and within rural, nonurban, and nonmetropolitan California.

(e) Encourage and support continuity, coordination, and cooperation among national, state, multicommunity, and local rural development initiatives and service providers.

(f) Ensure that Californians in rural, nonurban, and nonmetropolitan areas are afforded the opportunity to determine this state's rural development agenda for their communities.

(g) Provide a voice to all segments of this state's rural, nonurban, and nonmetropolitan communities on rural issues.

(h) Serve as an advisory board to the Governor, state agencies, and the Legislature on rural development issues.

(i) Establish an information clearinghouse on rural challenges and needs, development services, model initiatives, available resources, and service providers.

(j) Foster community-based development initiatives through multicommunity partnerships.

(k) Support strategic planning and research for, and evaluation of, rural development initiatives and service providers.

(*l*) Bring together in a comprehensive and understandable way the fragmented community development resources that rural communities must rely on to meet their residents' needs.

(m) Serve as California's state rural development council within the meaning of the Presidential Initiative on Rural America and the United States Department of Agriculture's National Rural Development Partnership by providing inventories, reports, assessments, and implementation plans as appropriate, and working together with the federal government to achieve the National Rural Development Partnerships Goals of collaboration and effective utilization of rural development resources in order to identify, resolve, and eliminate intergovernmental and interagency impediments and other barriers that hinder effective rural development efforts.

(n) Engage in any other appropriate activities necessary to fulfill the purposes, duties, and powers of the council, which may include, but are not limited to, all of the following:

(1) Obtaining advisers.

(2) Creating task forces composed of noncouncil members.

(3) Holding, hosting, planning, or attending conferences on rural development issues.

(4) Creating and managing an Internet home page.

(5) Producing a newsletter.

(6) Issuing reports, recommendations, or other communications as deemed necessary by the council.

(7) Making recommendations to the Legislature, Governor, and federal government on issues related to rural California.

(8) Hiring employees.

15373.112. The council may apply for and receive gifts, grants, contributions, and other funds from the state government, local government, federal government, private agencies, corporate entities, affiliated associations, agricultural boards, agricultural advisory boards, agricultural marketing programs, and individuals and may, consistent with state law, contract with public and private groups to conduct its business.

15373.113. Notwithstanding Section 7550.5, on or before November 15 of each year, the Secretary of Trade and Commerce, as chairperson of the council, shall transmit to the Governor and the Legislature a report that includes a summary of the council's activities, recommendations for future rural development action, and an accounting of the source and use of funds disbursed during the previous fiscal year.

15373.114. (a) The Rural Development Fund is hereby created in the State Treasury to promote and assist in rural development efforts across the state.

(b) Money deposited in the fund shall include any monetary gifts, grants, and donations, and reimbursements of expenses, including,

but not limited to, moneys from the United States Department of Agriculture.

SEC. 4. Chapter 1.9 (commencing with Section 65055) of Division 1 of Title 7 of the Government Code is repealed.

SEC. 5. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the Trade and Commerce Agency for the 1999–2000 fiscal year reimbursement costs specified in paragraph (3) of subdivision (a) of Section 15373.110 of the Government Code, as added by Section 3 of this act.

CHAPTER 598

An act to add Section 15365.11 to the Government Code, relating to international trade, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known and may be cited as the Rural Development Export Act of 1999.

SEC. 2. (a) The Legislature finds that while the California Office of Export Development has worked hard on assisting manufacturers and service industries to market their products overseas, rural communities have also benefited from the office's activities related to nonagricultural products.

(b) The Legislature further finds that California's rural communities experience unemployment rates that often exceed those of urban and suburban communities, and that enabling these rural communities to more fully integrate into the global economy will lead to higher employment in rural California.

(c) It is the intent of the Legislature in enacting this act to support rural communities in their development as full participants in the global economy.

SEC. 3. Section 15365.11 is added to the Government Code, to read:

15365.11. (a) The California Office of Export Development shall develop a rural manufacturing and service export program to be known as the Rural Export Strategy.

(b) Rural Export Strategy program outreach activities shall include, but need not be limited to, all of the following:

(1) Identifying and recruiting delegations of potential foreign buyers of products manufactured or produced in rural areas.

(2) Providing information and technical assistance to rural businesses interested in exporting products and services.

(3) Organizing and conducting trade missions for rural businesses through the development of public-private partnerships with local trade organizations.

(4) Conducting market research.

(5) Increasing awareness in rural communities of export services offered by the International Trade and Investment Division of the Trade and Commerce Agency.

(c) The Rural Export Strategy shall provide a means by which current programs and resources provided by or available through state government can be made available to rural manufacturers and service providers so that all regions in California are served.

(d) The Rural Export Strategy shall be developed in collaboration with relevant agencies, organizations, and businesses that serve or are located within rural California, or both, including, but not limited to, economic development councils, private industry councils, rural conservation and development councils, local, state, and federal agencies, Centers for International Trade Development, the California Community Colleges Economic Development Program, and chambers of commerce. The strategy shall use the resources available through these agencies, organizations, businesses, and others that the office determines are appropriate to improve outreach and the availability of state export development programs and resources.

(e) The Rural Export Strategy shall include a cost-effective mechanism to educate the staff in California's overseas trade offices about products and services available from the state's rural communities.

(f) In addition to other state business and export development resources, the Rural Export Strategy shall include provisions describing how the California Export Finance Office can be more accessible and more utilized by rural businesses.

(g) The Rural Export Strategy shall be submitted to the California State World Trade Commission for consideration and implementation, where appropriate.

SEC. 4. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the California Office of Export Development for the purposes of this act.

CHAPTER 599

An act to amend Section 25249.7 of the Health and Safety Code, relating to toxic chemicals.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25249.7 of the Health and Safety Code is amended to read:

25249.7. (a) Any person that violates or threatens to violate Section 25249.5 or 25249.6 may be enjoined in any court of competent jurisdiction.

(b) Any person who has violated Section 25249.5 or 25249.6 shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation in addition to any other penalty established by law. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(c) Actions pursuant to this section may be brought by the Attorney General in the name of the people of the State of California or by any district attorney or by any city attorney of a city having a population in excess of 750,000 or with the consent of the district attorney by a city prosecutor in any city or city and county having a full-time city prosecutor, or as provided in subdivision (d).

(d) Actions pursuant to this section may be brought by any person in the public interest if both of the following requirements are met:

(1) The private action is commenced more than 60 days from the date that the person has given notice of an alleged violation of Section 25249.5 or 25249.6 which is the subject of the private action to the Attorney General and the district attorney, and any city attorney or prosecutor in whose jurisdiction the violation is alleged to have occurred, and to the alleged violator.

(2) Neither the Attorney General nor any district attorney nor any city attorney or prosecutor has commenced and is diligently prosecuting an action against the violation.

(e) Any person bringing an action in the public interest pursuant to subdivision (d) shall notify the Attorney General that such an action has been filed.

(f) (1) Any person bringing an action in the public interest pursuant to subdivision (d) shall, after the action is either subject to a settlement, with or without court approval, or a judgment, submit to the Attorney General a reporting form that includes the results of that settlement or judgment, and the final disposition of the case, even if dismissed. At the time of the filing of any judgment pursuant to an action brought in the public interest pursuant to subdivision (d), the plaintiff shall file an affidavit verifying that the report required by this subdivision has been accurately completed and submitted to the Attorney General.

(2) Any person bringing an action in the public interest pursuant to subdivision (d) shall, after the action is either subject to a settlement, with or without court approval, or to a judgment, submit to the Attorney General a report that includes information on any

corrective action being taken as a part of the settlement or resolution of the action.

(3) The Attorney General shall develop a reporting form that specifies the information that shall be reported, including, but not limited to, for purposes of subdivision (e), the date the action was filed, the nature of the relief sought, and for purposes of this subdivision, the amount of the settlement or civil penalty assessed, other financial terms of the settlement, and any other information the Attorney General deems appropriate.

(g) The Attorney General shall maintain a record of the information submitted pursuant to subdivisions (e) and (f) and shall make this information available to the public.

SEC. 2. The Legislature hereby finds and declares that this act furthers the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

CHAPTER 600

An act to amend Sections 40183, 40184, 40973, 41730, and 41731 of, and to amend, repeal, and add Section 48007 of, the Public Resources Code, relating to waste management.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 40183 of the Public Resources Code is amended to read:

40183. (a) "Rural city" means either of the following:

(1) An incorporated city that has a geographic area of less than three square miles, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.

(2) An incorporated city that has a population density of less than 1,500 people per square mile, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.

(b) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to September 1, 1994.

SEC. 2. Section 40184 of the Public Resources Code is amended to read:

40184. (a) "Rural county" means any county that has a population of 200,000 or less and is located in a rural area.

(b) For the purposes of this section, Section 40183, and subdivision (d) of Section 40973, "rural area" means those counties and cities located in agricultural or mountainous areas of the state and located

outside the Department of Finance's Primary Metropolitan Statistical Areas.

(c) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to September 1, 1994.

SEC. 3. Section 40973 of the Public Resources Code is amended to read:

40973. (a) The regional agency, and not the cities or counties that are member agencies of the regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the regional agency is formed.

(b) Notwithstanding Section 41782, except as provided in subdivision (c), if a regional agency has been specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6 of Part 1, neither the regional agency nor any member jurisdiction of the regional agency shall be eligible for a reduction of the diversion requirements of Section 41780.

(c) The regional agency may be eligible for a reduction of diversion and planning requirements if all member jurisdictions of a regional agency are rural cities or rural counties, as defined, respectively, in Sections 40183 and 40184.

(d) The regional agency may be eligible for a reduction of planning requirements if all member jurisdictions of a regional agency are cities located in both a rural area and a rural county, as defined in Section 40184, and an unincorporated portion of a county.

(e) (1) If, pursuant to subdivision (a), a regional agency is specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6, the regional agency shall not be comprised of more than two counties and all of the cities within those two counties, except as otherwise authorized by the board.

(2) The board may authorize the formation of a regional agency that exceeds two counties and all of the cities within those two counties, for purposes of compliance with Article 1 (commencing with Section 41780) of Chapter 6, if the board finds that the formation of the regional agency will not adversely affect compliance with this part.

SEC. 4. Section 41730 of the Public Resources Code is amended to read:

41730. Except as provided in Section 41750.1, each city shall prepare, adopt, and, except for a city and county, transmit to the county in which the city is located a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a city source reduction and recycling element adopted pursuant to this part. The nondisposal facility element and any amendments to the element may be

appended to the city's source reduction and recycling element when that element is included in the countywide integrated waste management plan, prepared pursuant to Section 41750. The nondisposal facility element and any amendments to the element shall not be subject to the approval of the county and the majority of cities with the majority of the population in the incorporated area.

SEC. 5. Section 41731 of the Public Resources Code is amended to read:

41731. Except as provided in Section 41750.1, each county shall prepare, adopt, and, except for a city and county, transmit to the cities located in the county a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a county source reduction and recycling element adopted pursuant to this part. The nondisposal facility element and any amendments to the element may be appended to the county's source reduction and recycling element when that element is included in the countywide integrated waste management plan prepared pursuant to Section 41750. The nondisposal facility element and any amendments to the element shall not be subject to the approval of the majority of cities with the majority of the population in the incorporated area.

SEC. 6. Section 48007 of the Public Resources Code is amended to read:

48007. (a) Recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing fees imposed pursuant to Section 48000.

(b) For purposes of this section, and only for the purpose of determining whether fees shall be imposed pursuant to Section 48000, "inert waste removed from the waste stream and not disposed of in solid waste landfills" includes the use, disposal, or placement of solely inert waste on property where surface mining operations, as defined in Section 2735, are being conducted, or have been conducted previously, as long as the use, disposal, or placement is for purposes of reclamation, as defined in Section 2733, pursuant to either of the following:

(1) A reclamation plan approved pursuant to Section 2774.

(2) For surface mining operations conducted prior to January 1, 1976, an agreement with a city or county, or a permit issued by a city or county, that provides for a fill appropriately engineered for the planned future use of the reclaimed minesite.

(c) For purposes of this section, "inert waste" means rock, concrete, brick, sand, soil, and cured asphalt only. In addition, inert waste does not include any waste that meets the definition of "designated waste" as defined in Section 13173 of the Water Code or "hazardous waste" as defined by Section 40141.

(d) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 7. Section 48007 is added to the Public Resources Code, to read:

48007. (a) Recycled materials and inert waste removed from the waste stream and not disposed of in a solid waste landfill shall not be included for the purpose of assessing fees imposed pursuant to Section 48000.

(b) This section shall become operative on January 1, 2002.

SEC. 8. The amendments made to Section 48007 of the Public Resources Code by Section 6 of this bill shall not be construed to affect any of the following:

(a) Affect the provisions of Section 41781.3 of the Public Resources Code.

(b) The provisions of Article 1 (commencing with Section 41780) of Chapter 6 of Part 2 of Division 27 of the Public Resources Code and implementing regulations relating to the determination of the base amount from which diversion requirements shall be calculated or what constitutes diversion from disposal and transformation.

(c) The authority of the California Integrated Waste Management Board to permit, adopt standards, or otherwise regulate solid waste disposal, solid waste handling, solid waste facilities, or solid waste landfills in accordance with Division 30 (commencing with Section 40000) of the Public Resources Code and with the board's implementing regulations.

SEC. 9. The Legislature finds and declares that the amendments made to Section 48007 of the Public Resources Code by Section 6 of this act do not constitute a change in, but constitute a clarification of, existing law.

SEC. 10. The clarifying amendments made to Section 48007 of the Public Resources Code by Section 6 of this act shall not be effective after January 1, 2002. However, the use, disposal, or placement of solely inert waste prior to January 1, 2002, for purposes of mine reclamation on property where surface mining operations have been conducted shall not be subject to disposal fees imposed pursuant to Section 48000 of the Public Resources Code, and no fee shall be imposed retroactively on and after January 1, 2002.

SEC. 11. It is the intent of the Legislature, in enacting this act, to remedy any ambiguity in the applicability of the Integrated Waste Management Fee, as imposed pursuant to Part 23 (commencing with Section 45001) of Division 2 of the Revenue and Taxation Code, to any inert waste disposal facility that is issued a solid waste facility permit prior to January 1, 2002, and to set forth an equitable resolution of the fee applicability issued by establishing a date certain

upon which the fee will become applicable to any permitted inert disposal facility.

CHAPTER 601

An act relating to hazardous materials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The sum of one hundred forty thousand dollars ($140,000) is hereby appropriated for expenditure, notwithstanding Section 13340 of the Government Code, without regard to fiscal year, from the Toxic Substances Control Account to the Department of Toxic Substances Control for allocation to the County of Shasta for the purchase of emergency response equipment for the Shasta Cascade Hazardous Materials Response Team.

(b) The County of Shasta shall expend not more than 1 percent of the appropriation made in subdivision (a) to pay for the administrative costs of purchasing emergency response equipment for the Shasta Cascade Hazardous Materials Response Team.

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:

So that the Shasta Cascade Hazardous Materials Response Team may receive adequate funding to carry out emergency response to hazardous materials accidents and releases in the seven northern counties of Emergency Planning District III, it is necessary that this act take effect immediately.

CHAPTER 602

An act to amend Item 8260-103-0001 of Section 2.00 of Chapter 50 of the Statutes of 1999, relating to the California Arts Council, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Item 8260-103-0001 of Section 2.00 of Chapter 50 of the Statutes of 1999 is amended to read:

8260−103−0001−−For local assistance, California Arts Council 26,187,000

Provisions:

1. Of the funds appropriated in this item, the following allocations shall be made to museums and cultural institutions: $464,000 for the Armenian Film Foundation; $250,000 for the Arte Americans; $1,600,000 for the Asian Art Museum; $162,000 for the Bonita Historical Museum; $500,000 for the Brava Theater Youth Outreach; $1,000,000 for the Chinese−American Museum and Italian Hall; $750,000 for the Los Angeles River Center ; $34,000 for the Harry Sweet Film Archives; $40,000 for the historic transportation system in Old Sacramento; $1,000,000 for the Hollywood Entertainment Museum; $1,000,000 for the Japanese−American National Museum; $800,000 for the Latino Museum of History, Art and Culture; $5,000,000 for the Los Angeles Civic Center; $250,000 for the Mexican−American Heritage Museum; $1,250,000 for the Mid−Peninsula Jewish Community Center; $250,000 for the Model Railroad Museum at Balboa Park; $540,000 for the Museum of Latin American Art; $1,500,000 for the Natural History Museum of Los Angeles County; $1,000,000 for the Orange County Marine Institute; $145,000 for the Randall Museum; $72,000 for the Redding Old City Hall Arts Center; $200,000 for the San Bernardino County traveling museum exhibit; $500,000 for the San Diego Maritime Museum; $2,000,000 for the San Francisco Jewish Museum; $1,000,000 for the San Francisco Mexican Museum; $45,000 for the San Francisco Philharmonic; $35,000 for the Santa Clarita Historical Steam Engine; $200,000 for the Santa Maria Children's Museum; $2,000,000 for the Simon Weisenthal Center Museum of Tolerance; $2,000,000 for the Skirball Museum; and $400,000 for the Zimmer Museum.

2. The funds appropriated by this item are for one−time grants to museums and cultural institutions to provide educational services to public school students and for one−time grants to museums and cultural institutions for capital outlay. In making this appropriation, it is the intent of the Legislature to provide a simple system for allocating funds to museums and cultural institutions that ensures accountability of public funds. It is not the intent of the Legislature to establish an ongoing system of local assistance for museums and cultural institutions.

3. (a) For the purposes of this item, educational services may include teacher training, curriculum development, schoolsite presentations or workshops, distance learning, and reduced price or free admissions. No funds appropriated by this item may be expended for hiring of permanent staff, purchase of vehicles, or the general operating expenses of these museums. Funds appropriated by this item shall be used to supplement, and not supplant, current funding for educational services for public school students from other funding sources.

(b) On or before November 1, 1999, each museum and cultural institution shall submit to the California Arts Council a detailed expenditure plan on the proposed uses of the funds appropriated to it by this item for educational services. Notwithstanding Section 2.00 of this act, funds appropriated in this item for educational services may be expended only for educational services provided from July 1, 1999, to June 30, 2002, inclusive.

(c) The California Arts Council shall review and approve each expenditure plan to ensure that (1) funds are proposed to be expended for educational purposes consistent with paragraph (a) of this Provision 3 and (2) the expenditure plan proposed a cost−effectiveness use of the funds. The council shall develop a process

for reviewing, approving, and paying grantees in a timely fashion. To ensure financial accountability, the council shall develop a reporting process and specify information to be reported by grantees on a regular basis.

(d) The California Arts Council shall report to the Joint Legislative Budget Committee by October 1, 2000, detailing expenditures made and programmatic outcomes achieved by each grant funded pursuant to this item during the 1999–00 fiscal year, and by October 1 for each subsequent fiscal year during which funds are expended, including, but not limited to, the number of students and teachers served, evidence of student achievement, curriculum materials developed, and evidence of professional growth among teachers trained.

4. (a) For purposes of this item, capital outlay includes expenditures for planning, working drawings, and repair, renovation, and construction of museum and cultural institution facilities. No funds appropriated by this item for purposes of capital outlay may be used for hiring of permanent staff, operating expenses, or non−capital−outlay−related expenditures.

(b) On or before November 1, 1999, each museum and cultural institution shall submit to the California Arts Council a detailed expenditure plan on the proposed uses of the funds appropriated to it by this item for capital outlay. Notwithstanding Section 2.00 of this act, funds appropriated in this item for capital outlay may be expended only for capital outlay purposes from July 1, 1999, to June 30, 2002, inclusive.

(c) The California Arts Council shall review and approve each expenditure plan to ensure that (1) funds are expended for the capital outlay purposes consistent with paragraph (a) of this Provision 4 and (2) the expenditure plan proposes a cost−effective use of the funds. The council shall develop a process for

reviewing, approving, and paying grantees in a timely fashion. To ensure financial accountability, the council shall develop a reporting process and specify information for grantees to report on a regular basis.

(d) The California Arts Council shall report to the Joint Legislative Budget Committee by October 1, 2000, detailing expenditures made and the outcome in terms of facilities repaired, renovated, or constructed for the 1999–00 fiscal year, and by October 1 for each subsequent fiscal year during which funds appropriated by this item are expended.

5. Of the funds appropriated by this item, $200,000 shall be used by the California Arts Council to defray it for support and related expenses for performing its responsibilities under this item. The council may enter into an interagency agreement to obtain personnel services relating to the review and approval of capital outlay expenditure plans.

6. The funds appropriated for the Armenian Film Foundation shall be expended for a grant for the production of an educational film on the Armenian genocide.

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 funding provided in the Budget Act of 1999 may be properly directed to the Los Angeles River Center in a timely fashion, it is necessary that this act take effect immediately.

CHAPTER 603

An act to amend Section 62.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 62.2 of the Revenue and Taxation Code is amended to read:

62.2. (a) (1) Subject to paragraph (2), change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, including a governmental entity, if, within 18 months after the transfer, the mobilehome park is transferred by that corporation or other entity, including a governmental entity, to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of the mobilehome park in a transaction that is excluded from change in ownership by subdivision (a) of Section 62.1, or at least 51 percent of the mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by subdivision (b) of Section 62.1.

(2) (A) Any mobilehome park that was initially transferred on or after January 1, 1993, to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, including a governmental entity, that is subsequently transferred within 36 months of that initial transfer as provided in paragraph (1), shall qualify for the exclusion from change in ownership pursuant to this subdivision. In applying the 36-month limit specified in the preceding sentence to the subsequent transfer to an individual tenant, as provided in paragraph (1), of a rental space in a mobilehome park that was initially transferred on or after January 1, 1995, to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, the execution of a purchase contract and the opening of a bona fide purchase escrow with a licensed escrow agent shall be deemed to transfer the rental space in compliance with that 36-month limit, provided that both of the following conditions are met:

(i) The escrow is opened prior to the expiration of the 36-month time period.

(ii) The escrow closes on a date no later than six months after the end of the 36-month time period.

(B) A mobilehome park located within a disaster area that was initially transferred on or after October 1, 1991, and before October 31, 1991, to a nonprofit corporation, stock cooperative corporation, or other entity, that is subsequently transferred within 76 months of that initial transfer as provided in paragraph (1), shall qualify for the exclusion from change in ownership pursuant to this subdivision. For purposes of the preceding sentence, "mobilehome park located within a disaster area" means a mobilehome park that is located in the County of Los Angeles in an area for which both of the following apply:

(i) The Governor, as a result of the January 17, 1994, Northridge earthquake, has declared the area to be in a state of disaster and certified the area's need for assistance.

(ii) The President of the United States has, pursuant to federal law, determined the area to be in a state of major disaster.

The exclusion from change in ownership pursuant to this subdivision of a mobilehome park located within a disaster area shall be effective commencing with the 1995–96 fiscal year, and shall not require any affected county to refund any amount of property tax levied with respect to a mobilehome park for the period from October 1, 1991, to June 30, 1995, inclusive.

(b) With respect to any transfer of any mobilehome park on or after January 1, 1989, subject to this section, the individual tenants who are renting at least a majority of the spaces in the mobilehome park prior to the transfer to the entity formed by the tenants for the acquisition of the park shall participate in the transaction through the ownership of an aggregate of at least a majority of voting stock of, or other ownership or membership interest in, that entity.

(c) This section shall not apply if any fees charged the mobilehome park tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer, plus any accrued interest and taxes.

(d) If the assessor is notified in writing at the time the transferee files the change in ownership statement that the transferee intends to qualify the transfer under this section, the mobilehome park shall not be reappraised pending satisfaction of the relevant conditions set forth in this section for exclusion from change in ownership. If the transferee fails to satisfy those conditions, the assessor shall reappraise the mobilehome park and levy escape assessments or supplemental assessments, as appropriate. For escape or supplemental assessments levied pursuant to the preceding sentence with respect to a mobilehome park located within a disaster area, both of the following conditions shall apply:

(1) The limitations period shall be that period specified in either subdivision (b) of Section 532 or subdivision (d) of Section 75.11, as applicable.

(2) For purposes of applying the limitations periods specified in paragraph (1), the expiration date of the 76-month period specified in subdivision (a) shall be deemed to be the date upon which the initial transfer of the mobilehome park was reported to the assessor.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

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 604

An act to amend the heading of Division 6 (commencing with Section 1170) of, and to add Chapter 9 (commencing with Section 1400) to Division 6 of, the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The heading of Division 6 (commencing with Section 1170) of the Military and Veterans Code is amended to read:

DIVISION 6. VETERANS BUILDINGS, MEMORIALS, AND CEMETERIES

SEC. 2. Chapter 9 (commencing with Section 1400) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 9. NORTHERN CALIFORNIA VETERANS CEMETERY

1400. (a) (1) The Department of Veterans Affairs, in voluntary cooperation with the Shasta County Board of Supervisors and the boards of supervisors of other participating northern California counties as specified in Section 1401, shall design, develop, and construct a state-owned and state-operated Northern California Veterans Cemetery which shall be located in northern California.

(2) The department shall oversee and coordinate the design, development, and construction of the cemetery.

(b) (1) Those eligible for interment in the cemetery are all honorably discharged veterans and their spouses and children. A fee of five hundred dollars ($500) shall be charged for each spouse or child interred in the cemetery.

(2) For the purposes of this subdivision, the department shall adopt regulations to specify the eligibility requirements for interment in the cemetery.

(3) All fees received pursuant to paragraph (1) shall be deposited in the Northern California Veterans Cemetery Perpetual Maintenance Fund created pursuant to Section 1401.

1401. (a) For the purposes of Section 1400, the Shasta County Board of Supervisors may join with other northern California counties including, but not limited to, the Counties of Colusa, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity, to design, develop, and construct the cemetery.

(b) All moneys received for the design, development, and construction of the cemetery shall be deposited in the Northern California Veterans Cemetery Master Development Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, money in the fund is continuously appropriated to the department for the purpose of designing, developing, constructing, and equipping the cemetery. Moneys appropriated by the Legislature for these purposes shall also be deposited in the fund.

(c) (1) All moneys received for the maintenance of the cemetery, including moneys received pursuant to subdivision (b) of Section 1400, shall be deposited in the Northern California Veterans Cemetery Perpetual Maintenance Fund, which is hereby created in the State Treasury. Any state funding for the annual maintenance of the cemetery shall be appropriated by the Legislature in the annual Budget Act.

(2) It is estimated that, after the construction of the cemetery, four hundred fifty thousand dollars ($450,000) should be appropriated annually by the state or the participating northern California counties, or both, to the department for the operating costs of the cemetery.

(3) Expenditures for maintenance may not be more than six hundred thousand dollars ($600,000) per calendar year.

SEC. 3. The Legislature hereby appropriates five hundred twenty thousand dollars ($520,000) from the General Fund as follows:

(a) Seventy thousand dollars ($70,000) to the Department of Veterans Affairs for carrying out the provisions of paragraph (2) of subdivision (a) of Section 1400 of the Military and Veterans Code.

(b) Four hundred fifty thousand dollars ($450,000) to the Northern California Veterans Cemetery Master Development Fund for the Master Development Plan of the Northern California Veterans Cemetery pursuant to paragraph (1) of subdivision (a) of Section 1400 of the Military amd Veterans Code.

SEC. 4. It is the intent of the Legislature that the state apply for and receive the maximum amount of federal funds available for the construction and development of the Northern California Veterans Cemetery. Accordingly, both of the following shall apply to funding of the cemetery:

(a) The Department of Veterans Affairs shall apply to the State Cemetery Grant Program of the federal Department of Veterans Affairs for a grant of not more than six million dollars ($6,000,000), which amount represents 100 percent of the estimated cost for designing, developing, constructing, and equipping the cemetery.

(b) The money appropriated under Section 3 of this act may not be expended until the Department of Veterans Affairs has received written approval of the grant requested under subdivision (a) and a commitment from the federal State Cemetery Grant Program that the funds appropriated under the grant are available for expenditure

by the state, except that the department may expend an amount necessary for completion of the grant proposal from the funds appropriated under subdivision (b) of that Section 3.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to commence with the design, development, and construction of the Northern California Veterans Cemetery at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 605

An act to amend Sections 18521, 19347, and 19384 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 18521 of the Revenue and Taxation Code is amended to read:

18521. (a) (1) Except as otherwise provided in this section, an individual shall use the same filing status that he or she used on his or her federal income tax return filed for the same taxable year.

(2) If the Franchise Tax Board determines that the filing status used on the taxpayer's federal income tax return was incorrect, the Franchise Tax Board may, under Section 19033 (relating to deficiency assessments), revise the return to reflect a correct filing status.

(3) If either spouse was a nonresident for any portion of the taxable year, a husband and wife who file a joint federal income tax return shall be required to file a joint nonresident return.

(b) In the case of an individual who is not required to file a federal income tax return for the taxable year, that individual may use any filing status on the return required under this part that he or she would be eligible to use on a federal income tax return for the same taxable year if a federal income tax return was required.

(c) Notwithstanding subdivision (a), a husband and wife may file separate returns under this part if either spouse was either of the following during the taxable year:

(1) An active member of the armed forces or any auxiliary branch thereof.

(2) A nonresident for the entire taxable year who had no income from a California source.

(d) Except for taxpayers described in subdivision (c), for any taxable year with respect to which a joint return has been filed, a separate return shall not be made by either spouse after the period for either to file a separate return has expired.

(e) No joint return shall be made if the husband and wife have different taxable years; except that if their taxable years begin on the same day and end on different days because of the death of either or both, then a joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his or her taxable year, or if the taxable year of either spouse is a fractional part of a year under Section 443(a) of the Internal Revenue Code.

(f) In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the decedent's executor or administrator; except that, in the case of the death of one spouse, the joint return may be made by the surviving spouse with respect to both that spouse and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm the joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his or her separate return.

SEC. 2. Section 19347 of the Revenue and Taxation Code is amended to read:

19347. Within 90 days after the mailing of the notice of the Franchise Tax Board's action disallowing interest upon any refund claim, or, in the case of an appeal to the board from the disallowance of interest on any refund claim, within the 90 days after the board's determination (including the issuance of a decision, opinion, or dismissal) of the appeal becomes final pursuant to Section 19346, the taxpayer may bring an action against the Franchise Tax Board on the grounds set forth for interest in the claim for the recovery of the interest.

SEC. 3. Section 19384 of the Revenue and Taxation Code is amended to read:

19384. The action provided by Section 19382 shall be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, or within 90 days after (a) notice of action by the Franchise Tax Board upon any claim for refund, or (b) the determination (including the issuance of a decision, opinion, or dismissal) by the State Board of Equalization on an appeal from the action of the Franchise Tax Board on a claim for

refund becomes final pursuant to Section 19334, whichever period expires the later.

SEC. 4. The amendments made by Sections 2 and 3 of this act shall be operative for any determination made by the State Board of Equalization that becomes final pursuant to Section 19334 and 19346 of the Revenue and Taxation Code on or after January 1, 2000.

CHAPTER 606

An act to repeal and add Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code, relating to capital financing.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known and may be cited as the California Infrastructure Planning Act.

SEC. 2. Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 3. Article 2 (commencing with Section 13100) is added to Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code, to read:

Article 2. Infrastructure Plan

13100. It is the intent of the Legislature in enacting this article that the state shall establish and annually update a five-year plan for funding infrastructure. The plan shall include input by the Legislature as provided in Section 13104. The plan shall identify state infrastructure needs and set out priorities for funding. The plan need not identify specific infrastructure projects to be funded, but it shall be sufficiently detailed to provide a clear understanding of the type and amount of infrastructure to be funded and the programmatic objectives to be achieved by this funding. The plan is intended to complement the existing state budget process for appropriating funds for infrastructure by providing a comprehensive guideline for the types of projects to be funded through that process.

13101. As used in this article, "infrastructure" means real property, including land and improvements to the land, structures and equipment integral to the operation of structures, easements, rights-of-way and other forms of interest in property, roadways, and water conveyances.

13102. Beginning January 10, 2002, in conjunction with the Governor's Budget submitted pursuant to Section 13337, the

Governor shall submit annually a proposed five-year infrastructure plan to the Legislature. This plan shall cover a five-fiscal-year period beginning with the fiscal year that is the same as that covered by the Governor's Budget with which it is being submitted.

The infrastructure plan shall contain the following information for the five years it covers:

(a) (1) Identification of new, rehabilitated, modernized, improved, or renovated infrastructure requested by state agencies to fulfill their responsibilities and objectives as identified in the strategic plans that they are required to prepare pursuant to Section 11816.

(2) Aggregate funding for transportation as identified in the four-year State Transportation Improvement Program Fund Estimate prepared pursuant to Sections 14524 and 14525.

(3) Infrastructure needs for Kindergarten through grade 12 public schools necessary to accommodate increased enrollment, class size reduction, and school modernization.

(4) The instructional and instructional support facilities needs for the University of California, the California State University, and the California Community Colleges.

(b) The estimated cost of providing the infrastructure identified in subdivision (a).

(c) A proposal for funding the infrastructure identified in subdivision (a), subject to the following criteria:

(1) If the funding proposal does not recommend funding the entirety of the infrastructure identified in subdivision (a), then the proposal shall specify the criteria and priorities used to select the infrastructure it does propose to fund.

(2) The funding proposal shall identify its sources of funding and may include, but is not limited to, General Fund, state special funds, federal funds, general obligation bonds, lease revenue bonds, and installment purchases. If the plan proposes the issuance of new state debt, it shall evaluate the impact of that debt on the state's existing overall debt position.

(3) The funding proposal is not required to recommend specific projects for funding, but may instead recommend the type and quantity of infrastructure to be funded in order to meet programmatic objectives which shall be identified in the proposal. However, any capital outlay or local assistance appropriations intended to fund infrastructure included in the Governor's Budget that coincides with the first year of the infrastructure plan shall derive from, and be encompassed by, the funding proposal contained in the plan.

13103. The Governor may order any entity of state government to assist in preparation of the infrastructure plan.

13104. It is the intent of the Legislature that the proposed infrastructure plan be considered by the Legislature in conjunction with its consideration of the Budget Bill.

CHAPTER 607

An act relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Department of Transportation shall extend the completion date to June 30, 2002, for the Environmental Enhancement and Mitigation (EEM) Projects for all of the following entities:

(a) Fallbrook Land Conservancy (Project No. 96-135; Agreement No. 11-96-54).

(b) City of Diamond Bar (Project No. 96-39; Agreement No. 07-96-37).

(c) Redwood Action Agency (Agreement No. 1-96-22).

(d) Cambria Community Services District (Project No. 96-28).

(e) County of San Luis Obispo, General Services Department/Parks Department (Project No. 96-92).

(f) Midpeninsula Regional Open Space District (Project No. 94-99; Agreement Nos. 04-94-15 and 04-95-09).

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, at the earliest possible time, extensions for certain Environmental Enhancement and Mitigation Projects, it is necessary that this act take effect immediately.

CHAPTER 608

An act to amend Sections 8761, 8765, 8773.1, and 8773.4 of the Business and Professions Code, and to amend Section 1092 of the Civil Code, relating to real property.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8761 of the Business and Professions Code is amended to read:

8761. Any licensed land surveyor or registered civil engineer may practice land surveying and prepare maps, plats, reports, descriptions, or other documentary evidence in connection therewith. All maps, plats, reports, descriptions, or other documents issued by the licensed land surveyor or registered civil engineer shall be signed by the surveyor or engineer to indicate the surveyor's or engineer's responsibility for them. In addition to the signature, the map, plat, report, description, or other document shall bear the seal or stamp of the licensee or registrant and the expiration date of the license or registration. If the map, plat, report, description, or other document has multiple pages or sheets, the signature, seal or stamp, and expiration date of the license or registration need only appear on the originals of the map or plat and on the title sheet of the report, description, or other document.

Every map or plat issued by a licensed land surveyor or registered civil engineer shall show the bearing and length of lines, scale of map and north arrow, the name and legal designation of the property depicted, and the date or time period of the preparation of the map or plat.

It is unlawful for any person to sign, stamp, seal, or approve any map, plat, report, description, or other document unless the person is authorized to practice land surveying.

SEC. 1.5. Section 8765 of the Business and Professions Code is amended to read:

8765. A record of survey is not required of any survey:

(a) When it has been made by a public officer in his or her official capacity and a reproducible copy thereof, showing all data required by Section 8764, except the recorder's statement, has been filed with the county surveyor of the county in which the land is located. Any map so filed shall be indexed and kept available for public inspection.

(b) Made by the United States Bureau of Land Management.

(c) When a map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.

(d) When the survey is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and sufficient monumentation is found to establish the precise location of property corners thereon, provided that a corner record is filed for any property corners which are set or reset or found to be of a different character than indicated by prior records. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(e) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided

that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

SEC. 2. Section 8773.1 of the Business and Professions Code is amended to read:

8773.1. The board shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which the corner record shall be submitted and filed, and the time limits within which the form shall be filed. A corner record shall be a single 8.5 by 11 inch sheet which may consist of a front and back page.

SEC. 3. Section 8773.4 of the Business and Professions Code is amended to read:

8773.4. (a) No corner record shall be filed unless the same is signed by a licensed land surveyor or registered civil engineer and stamped with his or her seal, or in the case of an agency of the United States government or the State of California the certificate may be signed by the chief of the survey party making the survey, setting forth his or her official title.

(b) No corner record need be filed when:

(1) A corner record is on file and the corner is found as described in the existing corner record.

(2) All conditions of Section 8773 are complied with by proper notations on a record of survey map filed in compliance with the Land Surveyor's Act or a parcel or subdivision map, in compliance with the Subdivision Map Act.

(3) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

This section shall not apply to maps filed prior to the effective date of this section.

SEC. 4. Section 1092 of the Civil Code is amended to read:

1092. A grant of an estate in real property may be made in substance as follows:

"I, A B, grant to C D all that real property situated in (insert name of county) County, State of California, bounded (or described) as follows: (here insert property description, or if the land sought to be conveyed has a descriptive name, it may be described by the name, as for instance, 'The Norris Ranch.')

Witness my hand this (insert day) day of (insert month), 20____.

AB"

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.

CHAPTER 609

An act to amend Sections 11517, 13000, 44975, 46003, 46003.5, 77002, 77007.5, 77008, 77030, 77032, 77034, 77090, 77091, 77093, 77095, 77096, 77097, and 77123 of, to add Sections 58897, 77003.5 and 77003.6 to, to repeal Section 46008 of, and to add Article 4 (commencing with Section 11480) to Chapter 1 of Division 6 of, the Food and Agricultural Code, and to amend Sections 110820, 110835, 110935, and 110958 of the Health and Safety Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 4 (commencing with Section 11480) is added to Chapter 1 of Division 6 of the Food and Agricultural Code, to read:

Article 4. Refunds

11480. "Fee," as used in this article, includes, but is not limited to, any application fee, license fee, permit fee, inspection fee, certification fee, registration fee, identification fee, analysis fee, certificate fee, or delinquent fee.

11481. (a) The director may authorize the refund of any money that is received or collected by the department in the payment of any fee, assessment, or tax, except that the director shall not authorize a refund of any money received by the department pursuant to a settlement agreement, stipulated judgment, or similar document or if the refund request is submitted more than four years after the payment was made.

(b) An amount equal to the amount of the refund is, notwithstanding Section 13340 of the Government Code, hereby continuously appropriated without regard to fiscal years, from the funds into which the fees were deposited, to the director to make the refunds.

11482. A refund may be made in whole or in part in any of the following instances:

(a) A refund of a fee is requested by the payer before any examination, review, inspection, or similar activity has been performed or services rendered by the department for the payer.

(b) The payment of a fee, assessment, or tax represents an overpayment, payment in duplicate, payment in error in law, or payment through error of the payer or the department.

11483. The fiscal officer of the department shall make payment of any refund pursuant to this article upon the submission to the fiscal officer of a voucher prepared by the director, or his or her designee, that sets forth the facts that pertain to the refund and authorizes its payment.

11484. If any money that is to be refunded has been deposited in the State Treasury, the Controller, upon receipt of a claim that is filed by the department, shall transfer that amount from the fund to which the money is credited to the director for payment of the refund.

11485. If the director finds that the amount of any refund is less than fifty dollars ($50), the director may retain the amount for use for the same purpose for which the original payment was made, unless the payment was made in error in law, in which case the director shall refund the amount.

SEC. 2. Section 11517 of the Food and Agricultural Code is amended to read:

11517. Any person whose license or certificate issued pursuant to this division, Chapter 3.4 (commencing with Section 14090), or Chapter 3.6 (commencing with Section 14151) of Division 7 is revoked, or whose application for such a license or certificate is denied for reasons other than his or her failure to satisfy examination requirements, is ineligible for a period of three years from the effective date of the decision to deny or revoke the license or certificate to apply or reapply as an individual, a business, or officer, director, administrator, or owner with a 10 percent or greater interest in a business, whichever is applicable, for the same kind of license or certificate or another license or certificate issued by the department if the grounds for the revocation or denial are determined by the department to be directly relevant to the functions, duties, or responsibilities of that other license or certificate.

SEC. 3. Section 13000 of the Food and Agricultural Code is amended to read:

13000. (a) Except as provided in subdivision (b), an action brought pursuant to this article shall be commenced by the director, the commissioner, the Attorney General, the district attorney, the

city prosecutor, or the city attorney, as the case may be, within two years of the occurrence of the violation. However, when an investigation is completed and submitted to the director, the action shall be commenced within one year of that submission.

(b) An action brought by the director to collect unpaid mill assessments and delinquent fees required by Article 4.5 (commencing with Section 12841) or an action brought by the director to collect civil penalties pursuant to Section 12999.4 for violations of Article 4.5 (commencing with Section 12841) or Section 12993 shall be commenced within four years of the occurrence of the violation.

SEC. 4. Section 44975 of the Food and Agricultural Code is amended to read:

44975. (a) Each handler of avocados shall pay to the director an inspection and certification fee each month. The fee shall be based on the number of pounds certified as determined by the director. However, in no event shall the fee be greater than twenty-five cents ($0.25) per hundredweight of pounds prepared for market. The number of pounds certified shall be reported monthly to the director, and these reports shall include all information required by the director. The fee required by this section shall be paid no later than the 10th day of the month following the month for which the fee is payable. Any handler who fails to pay the fee within the time required shall pay the director a penalty of 10 percent of the amount determined to be due, and, in addition, $1^1/_2$ percent interest per month on the unpaid balance. The director may adjust the fee from time to time and reduce it whenever he or she finds the cost of administering this article may be defrayed from revenue derived from lower fees.

(b) Notwithstanding subdivision (a), whenever the fees derived from pounds certified do not cover the cost of inspection, the director may establish hourly and mileage rates for inspection and certification of avocados based upon the cost of providing that inspection and certification. However, alternatively, a handler may present his or her avocados for inspection and certification on a date, time, and location specified by the director and pay the fees charged pursuant to subdivision (a).

SEC. 5. Section 46003 of the Food and Agricultural Code is amended to read:

46003. (a) The secretary shall establish an advisory board, which shall be known as the Organic Food Advisory Board, for the purpose of advising the secretary with respect to his or her responsibilities under this chapter and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(b) The advisory board shall be comprised of 14 members. Each member may have an alternate. Six members and their alternates shall be producers, at least one of whom shall be a producer of meat, fowl, fish, dairy products, or eggs. Two members and their alternates

shall be processors, one member and that member's alternate shall be a handler or a retailer, two members and their alternates shall be consumer representatives, one member and that member's alternate shall be an environmental representative, and two members and their alternates shall be technical representatives with scientific credentials related to agricultural chemicals, toxicology, or food science. Except for the consumer, environmental, and technical representatives, the members of the advisory board and their alternates shall have derived a substantial portion of their business income, wages, or salary from the production, handling, processing, or retailing of food sold as organic for at least three years preceding their appointment to the advisory board. The consumer and environmental representatives and their alternates shall not have a financial interest in the organic food industry and shall be representatives of recognized nonprofit organizations whose principal purpose is the protection of consumer health or protection of the environment. The technical representatives and their alternates shall not have a financial interest in the organic food industry.

(c) An alternate member shall serve at an advisory board meeting only in the absence of, and shall have the same powers and duties as, the member for whom he or she is representing as alternate, except for duties and powers as an officer of the board. The number of alternates present who are not serving in the capacity of a member shall not be considered in determining a quorum.

(d) An alternate member shall serve at an advisory board subcommittee meeting only in the absence of, and shall have the same powers and duties as, the member for whom he or she is designated as alternate, except for duties and powers as a subcommittee chairperson.

(e) The members of the advisory board and their alternates described in subdivision (b) shall be reimbursed for the reasonable expenses actually incurred in the performance of their duties, as determined by the advisory board and approved by the secretary.

(f) The State Director of Health Services, or his or her representative, and a county agricultural commissioner shall be appointed as ex officio members of the advisory board.

SEC. 6. Section 46003.5 of the Food and Agricultural Code is amended to read:

46003.5. (a) Following the promulgation of the national materials list by the United States Department of Agriculture pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Secs. 6501 to 6522, incl.), the secretary, in consultation with the Organic Food Advisory Board, shall adopt regulations listing specific substances that are in compliance or not in compliance with the definition of "prohibited materials," as defined in subdivision (p) of Section 110815 of the Health and Safety Code, for use in the production and handling of organic foods.

Prior to the promulgation of the national materials list by the United States Department of Agriculture pursuant to the federal Organic Foods Production Act of 1990, the Organic Food Advisory Board, in consultation with the secretary, shall determine which, if any, substance may be allowed for use in the production and handling of organic foods in this state. Within 90 days of promulgation of the national materials list by the United States Department of Agriculture, the Organic Food Advisory Board, in consultation with the secretary, shall determine which, if any, substance allowed for use by the national materials list may be allowed for use in the production and handling of organic foods in this state.

(b) Prior to adoption of these regulations, the secretary shall issue administratively a preliminary, nonexhaustive list of materials that are in compliance or not in compliance with subdivision (p) of Section 110815 of the Health and Safety Code based on the listings of permitted materials published by California Certified Organic Farmers, the Organic Trade Association, and the Departments of Agriculture of the States of Oregon and Washington.

SEC. 7. Section 46008 of the Food and Agricultural Code is repealed.

SEC. 8. Section 58897 is added to the Food and Agricultural Code, to read:

58897. To address catastrophic events, a marketing order may contain provisions for the establishment and operation of an indemnity trust fund to cover livestock and livestock product losses due to disease, natural disaster, or accidents.

SEC. 9. Section 77002 of the Food and Agricultural Code is amended to read:

77002. The maintenance and expansion of the walnut industry of California is necessary to ensure the consuming public of a continuous supply of this vital food and the maintenance of needed levels of income for those engaged in the walnut industry of this state.

SEC. 10. Section 77003.5 is added to the Food and Agricultural Code, to read:

77003.5. The establishment of the commission is necessary for the efficient development and management of a national and international advertising and promotion program that will enhance the reputation of the California walnut industry, create a more receptive environment for the industry and its products, and increase competitiveness of the California walnut industry within the national and international marketplace. The commission is necessary to carry out the California walnut industry's commitment to responsible stewardship and increasingly efficient cultural practices.

SEC. 11. Section 77003.6 is added to the Food and Agricultural Code, to read:

77003.6. The successes that the walnut industry of California have enjoyed have come about in part through a commitment to industry-funded research that has led to significant improvements in

the quality of the walnuts available to consumers and increasingly efficient cultural practices resulting in increased awareness of, and a more receptive environment for, the production and marketing of walnuts in domestic and foreign markets. It has also led to walnuts being a better consumer value. The establishment of the commission will maintain and enhance this research effort and make it possible for the walnut industry to realize its potential, resulting in increased consumer value and enhanced producer returns.

SEC. 12. Section 77007.5 of the Food and Agricultural Code is amended to read:

77007.5. Opportunity exists for continued growth and expansion of the walnut industry by creating new markets. The success of that expansion program is uniquely dependent upon effective advertising, promotion, and research since the creation of new markets is essentially a matter of educating and informing people of the use, nutritional value, and availability of the commodity and enhancing the reputation of the California walnut industry. The expansion of the walnut industry also provides an important source of jobs for many people in this state, a high proportion of whom reside in historically depressed areas of the state, and serves to ensure the preservation of an agrarian society.

SEC. 13. Section 77008 of the Food and Agricultural Code is amended to read:

77008. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the production of walnuts the opportunity to avail themselves of the benefits of collective action in the broad fields of development, maintenance, and expansion of markets, advertising, promotion, marketing research, public information and education, and production and processing research necessary to achieve the purposes stated in this chapter.

SEC. 14. Section 77030 of the Food and Agricultural Code is amended to read:

77030. "Marketing research" means any research relating to the marketing of walnuts in domestic or foreign markets.

SEC. 15. Section 77032 of the Food and Agricultural Code is amended to read:

77032. "Producer" means any person in this state who grows walnuts for market and who, upon request, provides proof of commodity sale. "Producer" does not include any person who markets 2,000 pounds or less of walnuts during a market year.

SEC. 16. Section 77034 of the Food and Agricultural Code is amended to read:

77034. "Advertising and sales promotion" means, in addition to its ordinarily accepted meaning, any plan directed toward increasing the sale of walnuts in domestic or foreign markets. No advertising or sales promotion plan shall make use of false or unwarranted claims

on behalf of any product, or disparage the quality, value, sales, or use of any other commodity.

SEC. 17. Section 77090 of the Food and Agricultural Code is amended to read:

77090. The commission may promote the sale of walnuts by brand and generic advertising and other promotional means, including tie-in advertising, for the purpose of creating, maintaining, and expanding domestic and foreign markets.

SEC. 18. Section 77091 of the Food and Agricultural Code is amended to read:

77091. The commission may educate and instruct the wholesale and retail trade in domestic and foreign markets with respect to proper methods of handling and selling walnuts.

SEC. 19. Section 77093 of the Food and Agricultural Code is amended to read:

77093. The commission may present facts to, and negotiate with, local, state, federal, and foreign agencies on matters that affect the walnut industry pursuant to this chapter.

SEC. 20. Section 77095 of the Food and Agricultural Code is amended to read:

77095. The commission may conduct, and contract with others to conduct, research, including the study, analysis, accumulation, and dissemination of information obtained from the research or elsewhere, respecting this chapter.

SEC. 21. Section 77096 of the Food and Agricultural Code is amended to read:

77096. The commission may accept contributions of, or match, private, state, or federal funds and employ or make contributions of funds to other persons or state or federal agencies for purposes of maintaining, promoting, and enhancing the walnut industry pursuant to this chapter.

SEC. 22. Section 77097 of the Food and Agricultural Code is amended to read:

77097. The commission may collect information, including, but not limited to, industry crop statistics, and may publish and distribute without charge a bulletin or other communication for dissemination of information to persons subject to this chapter.

SEC. 23. Section 77123 of the Food and Agricultural Code is amended to read:

77123. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds in a referendum vote conducted by the secretary that at least 40 percent of the total number of producers from the list established by the secretary pursuant to this article participate and that all of the following occurred:

(a) A majority of the producers voting in the referendum who are not affiliated with a cooperative handling walnuts voted in favor of this chapter, and the producers so voting marketed a majority of the

total quantity of walnuts marketed in the preceding marketing year by all those producers who voted in the referendum.

(b) A majority of the producers voting in the referendum who are affiliated with a cooperative handling walnuts voted in favor of this chapter, and the producers so voting marketed a majority of the total quantity of walnuts marketed in the preceding marketing year by all those producers who voted in the referendum.

SEC. 24. Section 110820 of the Health and Safety Code is amended to read:

110820. Except as otherwise provided in this article, no food shall be sold as organic unless it consists entirely of any of the following:

(a) Raw agricultural commodities that meet the following requirements:

(1) The commodity has been produced and handled without any prohibited material or color additive having been applied, and without irradiation.

(2) In the case of any raw agricultural commodity produced from seed, the seed has not been treated with any prohibited material. If untreated seed is not available, seed treated with a fungicide may be used, except for seed used for sprouts and other raw agricultural commodities, as described in paragraph (6).

(3) In the case of perennial crops:

For fields or management units registered with the county agricultural commissioner pursuant to Section 46002 of the Food and Agricultural Code commencing January 1, 1996, no prohibited material shall have been applied to the crop, field, management unit, or area where the commodity is grown for 36 months prior to harvest.

(4) In the case of annual or two-year crops:

For fields or management units registered with the county agricultural commissioner pursuant to Section 46002 of the Food and Agricultural Code commencing January 1, 1996, no prohibited material shall have been applied to the crop, field, management unit, or area where the commodity is grown for 36 months prior to harvest.

(5) In the case of any raw agricultural commodity that is grown in any growing medium, such as fungi grown in compost or transplants grown in potting mix:

(A) The growing medium must have been manufactured or produced:

(i) Without any prohibited material having been included in the medium.

(ii) Without any prohibited material having been applied to the area where the medium is manufactured or produced during seeding or inoculation of the medium.

(iii) Using methods that will minimize the migration or accumulation of any pesticide chemical residue in food grown in the medium.

(B) No prohibited material shall have been applied to the area where the commodity is grown during seeding or inoculation. If a

prohibited material is applied in the area prior to seeding or inoculation, a residue test shall be performed on the commodity grown from that seeding or inoculation.

(6) In the case of sprouts and other raw agricultural commodities as described in subparagraph (B):

(A) The seed shall have been organically produced, handled, and processed in accordance with this article. No prohibited material shall have been applied to the seed or to the area in which the commodity is grown after introduction of the seed.

(B) This paragraph and the requirements of paragraphs (4) and (5), where applicable, shall apply to raw agricultural commodities that are grown directly from seed through either of the following methods:

(i) Without soil or growing medium other than water.

(ii) On a soil or growing medium and seeded at a rate greater than one ounce per square foot (2,722 pounds per acre).

(b) Processed food manufactured only from raw agricultural commodities as described in subdivision (a), except as follows:

(1) Water, air, and salt may be added to the processed food.

(2) Ingredients other than raw agricultural commodities as described in subdivision (a) may be added to the processed food if these ingredients are included in the California administrative list of materials approved for organic food processing or the national list adopted by the United States Secretary of Agriculture pursuant to Section 6517 of the federal Organic Foods Production Act (7 U.S.C. Sec. 6501 et seq.) and do not represent more than 5 percent of the weight of the total finished product, excluding salt and water.

(c) Processed food manufactured only from a combination of raw agricultural commodities as described in subdivision (a) and processed food as described in subdivision (b).

(d) (1) Meat, fowl, fish, dairy products, or eggs that are produced, distributed, and processed without any prohibited material having been applied or administered, except as provided in paragraph (2) with respect to dairy products.

(2) For the first 10 months of the year prior to the taking of the milk, 80 percent of any feed administered to dairy livestock shall be comprised of materials in compliance with the regulations adopted pursuant to Section 14904 of the Food and Agricultural Code. For the final two-month period prior to the taking of the milk, 100 percent of any feed administered to the dairy livestock shall be in compliance with the regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

SEC. 25. Section 110835 of the Health and Safety Code is amended to read:

110835. The director may adopt regulations or administrative lists of specific substances that are in compliance or not in compliance with subdivision (p) of Section 110815 for use in the processing of foods under the enforcement jurisdiction of the department.

SEC. 26. Section 110935 of the Health and Safety Code is amended to read:

110935. The director shall maintain in a central location, and make publicly available for inspection and copying, upon request, a list of all penalties levied within the past five years, including the amount of each penalty, the party against whom the penalty was levied, and the nature of the violation. The list also shall be available by mail, upon written request and payment of a reasonable fee, as determined by the director.

SEC. 27. Section 110958 of the Health and Safety Code is amended to read:

110958. Annually, the director shall compile and publish and submit to the Organic Food Advisory Board a summary of information collected under Section 110875, including, but not limited to, the following:

(a) The total number of registrations received under this section.

(b) The total number and quantity of each type of product sold as organic by all registrants combined.

(c) The total annual organic gross sales volume of all registrants combined, and the median gross annual organic sales of all registrants.

(d) The names of all registrants.

(e) The number of registrants in each of the following ranges of annual gross sales volume:

(1) $0–$5,000
(2) $5,001–$10,000
(3) $10,001–$25,000
(4) $25,001–$50,000
(5) $50,001–$75,000
(6) $75,001–$100,000
(7) $100,001–$125,000
(8) $125,001–$150,000
(9) $150,001–$175,000
(10) $175,001–$200,000
(11) $200,001–$250,000
(12) $250,001–$300,000
(13) $300,001–$400,000
(14) $400,001–$500,000
(15) $500,001–$750,000
(16) $750,001–$1,000,000
(17) $1,000,001–$1,500,000
(18) $1,500,001–$2,000,000
(19) $2,000,001–$2,500,000
(20) $2,500,001–$5,000,000
(21) $5,000,001–$7,500,000
(22) $7,500,001–$10,000,000
(23) $10,000,001–$15,000,000
(24) $15,000,001–$20,000,000

(25) $20,000,001 and above.

(f) The report published pursuant to this section shall present the required information in an aggregate form that preserves the confidentiality of the proprietary information of individual registrants.

CHAPTER 610

An act to add Section 1464.2 to the Penal Code, and to amend Section 2936 of, and to repeal Sections 2937 and 2938 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1464.2 is added to the Penal Code, to read:

1464.2. Notwithstanding any other provision of law, an amount of not more than two hundred fifty thousand dollars ($250,000) per fiscal year of the moneys otherwise required to be deposited in the State Penalty Fund under subdivision (e) of Section 1464 shall be available, upon appropriation, for the exclusive trust purposes authorized under Article 2 (commencing with Section 2930) of Chapter 5 of Division 2 of the Vehicle Code.

SEC. 2. Section 2936 of the Vehicle Code is amended to read:

2936. The commissioner shall report to the Senate Committee on Transportation, the Assembly Committee on Transportation, and the Joint Legislative Budget Committee not later than January 15 of each year on all of the following:

(a) The condition of the fund.

(b) Identification of any contracts or grants made during the year.

(c) The amount of the grants or contracts.

(d) The services to be provided pursuant to the grants or contracts.

(e) The group or agency contracted with to provide the services.

SEC. 3. Section 2937 of the Vehicle Code is repealed.

SEC. 4. Section 2938 of the Vehicle Code is repealed.

CHAPTER 611

An act to amend Section 33492.86 of the Health and Safety Code, and to add Section 100.7 to the Revenue and Taxation Code, relating to redevelopment.

[Approved by Governor October 5, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. Section 33492.86 of the Health and Safety Code is amended to read:

33492.86. (a) This section shall apply to a redevelopment project area the territory of which includes March Air Force Base, that is adopted pursuant to a redevelopment plan that contains the provisions required by Section 33670, and that is adopted pursuant to this chapter. The redevelopment agency shall make the payments to affected school districts and community college districts required by subdivision (a) of Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9 instead of from the first fiscal year in which the agency receives tax-increment revenue.

(b) (1) Pursuant to Section 33492.3, the March Air Force Base Project Area adopted pursuant to this article may include all, or any portion of, property within the military base that the federal Base Closure and Realignment Commission has voted to realign when that action has been sustained by the President and the Congress of the United States, regardless of the percentage of urbanized land, as defined in Section 33320.1, within the military base.

(2) (A) Pursuant to Section 33492.3, the March Air Force Base Project Area may include territory outside the military base. The project area shall be entirely contained within a one-mile perimeter of the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995. At no time shall the aggregate acreage of the project area outside the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995, exceed 2 percent of the total acreage contained within that one-mile perimeter, and these areas may only be included in the project area upon a finding of benefit to the March Air Force Base Project Area and with the concurrence of the legislative bodies of the County of Riverside, the City of Moreno Valley, the City of Perris, and the City of Riverside.

(B) The agency for the March Air Force Base Project Area may, with the concurrence of the relevant legislative body pursuant to subparagraph (B), pay for all or a part of the value of land and the cost of the installation and construction of any structure or facility or other improvement that is publicly owned outside the jurisdiction of the agency, if the legislative body of the agency determines all of the following:

(i) That the structure, facility, or other improvement is of benefit to the project area.

(ii) That no other reasonable means of financing the facilities, structures, or improvements are available to the community.

(iii) That the payment of funds for the acquisition of land or the cost of facilities, structures, or other improvements will assist in the elimination of one or more blight conditions, as identified pursuant to Section 33492.83, inside the project area, or provide housing for low- or moderate-income persons.

(C) Concurrence of the relevant legislative body shall be demonstrated by the adoption of an ordinance by the community where the structure, facility, or other improvement is to be located which authorizes the redevelopment of the area within its territorial limits by the redevelopment agency for the March Air Force Base Project Area.

(D) All projects authorized by this subdivision shall be within communities which are contiguous to the March Air Force Base Project Area.

(c) Notwithstanding subdivision (a) of Section 33492.15 or any other provision of law, the March Joint Powers Redevelopment Agency shall not be obligated to make any payments required by subdivision (a) of Section 33942.15 to the County of Riverside, the County Free Library Fund, and the County Fire Fund. Instead, the March Joint Powers Redevelopment Agency shall be required to make those payments required under the Cooperative Agreement entered into among the County of Riverside, the March Joint Powers Authority, and the March Joint Powers Redevelopment Agency dated August 20, 1996, as that agreement may be amended from time to time.

SEC. 2. Section 100.7 is added to the Revenue and Taxation Code, to read:

100.7. Notwithstanding any other law, commencing with the 1999–2000 fiscal year, the apportionment of property tax revenues in the County of San Bernardino shall be modified as follows:

(a) The auditor shall apportion an amount of property tax revenues to the Victor Valley Economic Development Authority that is equal to the amount that would be allocated to that authority if the base year for the George Air Force Base Project Area was changed to the 1997–98 fiscal year for purposes of Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(b) The auditor shall reduce the amount of property tax revenues apportioned to all other jurisdictions within the George Air Force Base Project Area on a pro rata basis in an amount equal to the amount apportioned under subdivision (a).

(c) On or before June 30, 2004, and on or before June 30 of each fifth year thereafter, the Victor Valley Economic Development Authority shall remit to the Controller an amount of money equal to the amount of the increased aid provided by the state to school entities as a result of this section, plus interest. The interest shall accrue until the payment is made. The rate of interest shall be the rate of interest on the bonds of the authority. If there are no bonds, the rate of interest shall be the rate of interest earned by the Pooled

Money Investment Board. The Department of Finance shall determine the amount to be remitted, after consultation with the authority.

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.

CHAPTER 612

An act to amend Sections 5101.3, 5101.4, and 5101.8 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 5101.3 of the Vehicle Code is amended to read:

5101.3. (a) Any person otherwise eligible under this article who qualifies under subdivision (b) may apply for special license plates that shall run in a separate numerical series and shall contain the words "Pearl Harbor Survivor." The plates may be issued for any vehicle, except a vehicle used for transportation for hire, compensation, or profit, or a motorcycle, which is owned or coowned by the person.

(b) To qualify for issuance of the special plates, the applicant by satisfactory proof shall show all of the following:

(1) The applicant was a member of the United States Armed Forces on December 7, 1941, and received an honorable discharge from military service.

(2) The applicant was on station at Pearl Harbor, the Island of Oahu, or offshore within a distance of three miles, on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, as certified by a California chapter of the Pearl Harbor Survivors Association.

(c) Upon the death of a person issued special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. Upon the death of the spouse, the retained special license plates shall be returned to the department either (1) within 60 days following

that death or (2) upon the expiration of the vehicle registration, whichever occurs first.

(d) Sections 5106 and 5108 do not apply to this section.

SEC. 2. Section 5101.4 of the Vehicle Code is amended to read:

5101.4. (a) Any person otherwise eligible under this article who is a recipient of the Army Medal of Honor, Navy Medal of Honor, Air Force Medal of Honor, Army Distinguished Service Cross, Navy Cross, or Air Force Cross may apply for special license plates for the vehicle under this article.

(b) The applicant, by conclusive evidence, shall show that the applicant is a recipient of one of the nation's highest decorations for valor, as specified in subdivision (a).

(c) The special license plates issued under this section shall contain the words "Legion of Valor" and shall run in a regular numerical series. An adhesive sticker denoting which of the nation's highest decorations for valor, as specified in subdivision (a), is held by the applicant shall be affixed in a recess provided for it on the license plates.

(d) Upon the death of a person issued special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. Upon the death of the spouse, the retained special license plates shall be returned to the department either (1) within 60 days following that death or (2) upon the expiration of the vehicle registration, whichever occurs first.

(e) Sections 5106 and 5108 do not apply to this section.

SEC. 3. Section 5101.8 of the Vehicle Code is amended to read:

5101.8. (a) Any person otherwise eligible under this article who is a Purple Heart recipient may apply for special license plates for vehicles that are not used for transportation for hire, compensation, or profit, under this article. The special plates assigned to the vehicle shall run in a separate numerical series, shall have inscribed on the plate the Purple Heart insignia, and shall contain the words "Combat Wounded" and "Purple Heart" or at least the letters "PH" as part of the numerical series. The department shall reserve and issue the special plates to all applicants providing the proof required by subdivision (b).

(b) The applicant, by satisfactory proof, shall show that the applicant is a Purple Heart recipient.

(c) Special plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a Purple Heart recipient and may not be transferred to any other person, including the coowner of the vehicle. The special plates shall be surrendered to the department upon the death of the Purple Heart recipient.

(d) When an applicant for the Purple Heart license plate qualifies as a disabled veteran, as specified in subdivision (b) of Section 22511.55, the applicant may also apply for a distinguishing placard described in subdivision (a) of Section 22511.55 to be used in

conjunction with the Purple Heart license plate for the purpose of allowing special parking privileges pursuant to subdivision (a) of Section 22511.5.

(e) Sections 5106 and 5108 do not apply to this section.

CHAPTER 613

An act to amend Section 8670.35 of the Government Code, relating to oil spills.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8670.35 of the Government Code is amended to read:

8670.35. (a) Prior to January 1, 1992, the administrator, taking into consideration the state oil spill contingency plan, shall draft guidelines, standards, and formats regarding the adequacy of oil spill contingency plan elements of area plans required pursuant to Section 25503 of the Health and Safety Code. In developing the guidelines, the administrator shall consult with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee.

(b) (1) Any local government with jurisdiction over or directly adjacent to marine waters may apply for a grant to complete, update, or revise an oil spill contingency plan element.

(2) For purposes of this subdivision, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(c) Each contingency plan element established under this section shall include provisions for training fire and police personnel in oil spill response and cleanup equipment use and operations.

(d) Each contingency plan element prepared under this section shall be consistent with the local government's local coastal program as certified under Section 30500 of the Public Resources Code, the state oil spill contingency plan, and the National Contingency Plan.

(e) The administrator shall review and approve each contingency plan element established pursuant to this section. If, upon review, the administrator determines that the contingency plan element is inadequate, the administrator shall return it to the agency that prepared it, specifying the nature and extent of the inadequacies, and, if practicable, suggesting modifications. The local government agency shall submit a new or modified plan within 90 days after the plan was returned, responding to the findings and incorporating any suggested modifications.

(f) The administrator shall review the preparedness of local governments to determine whether a program of grants for completing oil spill contingency plan elements is desirable and should be continued. If the administrator determines that local government preparedness should be improved, the administrator shall request the Legislature to appropriate funds from the Oil Spill Prevention and Administration Fund for the purposes of this section.

CHAPTER 614

An act to amend Section 19306 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 19306 of the Revenue and Taxation Code is amended to read:

19306. (a) No credit or refund shall be allowed or made after a period ending four years from the date the return was filed (if filed within the time prescribed by Section 18567 or 18604, whichever is applicable), four years from the last day prescribed for filing the return (determined without regard to any extension of time for filing the return), or after one year from the date of the overpayment, whichever period expires later, unless before the expiration of that period a claim therefor is filed by the taxpayer, or unless before the expiration of that period the Franchise Tax Board allows a credit, makes a refund, or mails a notice of proposed overpayment on a preprinted form prescribed by the Franchise Tax Board.

(b) The amendments to this section by the act adding this subdivision shall be applied to all claims and refunds, without regard to taxable or income year, for which the statute of limitations has not expired on the date that this act takes effect.

CHAPTER 615

An act to amend Sections 98.7, 6304.5, 6309, 6400, 6423, 6425, 6428, 6429, 6430, 6432, and 6434 of, and to add Section 6719 to, the Labor Code, relating to employee safety.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 98.7 of the Labor Code is amended to read:

98.7. (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any provision of this code under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation. The six-month period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a separate, concurrent complaint with the United States Department of Labor within 30 days after the occurrence of the violation.

(b) Each complaint of unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint. The Labor Commissioner may designate the chief deputy or assistant Labor Commissioner or the chief counsel to receive and review the reports. The investigation shall include, where appropriate, interviews with the complainant, respondent, and any witnesses who may have information concerning the alleged violation, and a review of any documents which may be relevant to the disposition of the complaint. The identity of witnesses shall remain confidential unless the identification of the witness becomes necessary to proceed with the investigation or to prosecute an action to enforce a determination. The investigation report submitted to the Labor Commissioner or designee shall include the statements and documents obtained in the investigation, and the findings of the investigator concerning whether a violation occurred. The Labor Commissioner may hold an investigative hearing whenever the Labor Commissioner determines, after review of the investigation report, that a hearing is necessary to fully establish the facts. In the hearing the investigation report shall be made a part of the record and the complainant and respondent shall have the opportunity to present further evidence. The Labor Commissioner shall issue, serve, and enforce any necessary subpoenas.

(c) If the Labor Commissioner determines a violation has occurred, he or she shall notify the complainant and respondent and direct the respondent to cease and desist from the violation and take such action as is deemed necessary to remedy the violation, including, where appropriate, rehiring or reinstatement, reimbursement of lost wages and interest thereon, payment of

reasonable attorney's fees associated with any hearing held by the Labor Commissioner in investigating the complaint, and the posting of notices to employees. If the respondent does not comply with the order within 10 working days following notification of the Labor Commissioner's determination, the Labor Commissioner shall bring an action promptly in an appropriate court against the respondent. If the Labor Commissioner fails to bring an action in court promptly, the complainant may bring an action against the Labor Commissioner in any appropriate court for a writ of mandate to compel the Labor Commissioner to bring an action in court against the respondent. If the complainant prevails in his or her action for a writ, the court shall award the complainant court costs and reasonable attorney's fees, notwithstanding any other provision of law. Regardless of any delay in bringing an action in court, the Labor Commissioner shall not be divested of jurisdiction. In any such action, the court may permit the claimant to intervene as a party plaintiff to the action and shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and any other compensation or equitable relief as is appropriate under the circumstances of the case. The Labor Commissioner shall petition the court for appropriate temporary relief or restraining order unless he or she determines good cause exists for not doing so.

(d) If the Labor Commissioner determines no violation has occurred, he or she shall notify the complainant and respondent and shall dismiss the complaint. The Labor Commissioner may direct the complainant to pay reasonable attorney's fees associated with any hearing held by the Labor Commissioner if the Labor Commissioner finds the complaint was frivolous, unreasonable, groundless, and was brought in bad faith. The complainant may, after notification of the Labor Commissioner's determination to dismiss a complaint, bring an action in an appropriate court, which shall have jurisdiction to determine whether a violation occurred, and if so, to restrain the violation and order all appropriate relief to remedy the violation. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and such other compensation or equitable relief as is appropriate under the circumstances of the case. When dismissing a complaint, the Labor Commissioner shall advise the complainant of his or her right to bring an action in an appropriate court if he or she disagrees with the determination of the Labor Commissioner, and in the case of an alleged violation of Section 6310 or 6311, to file a complaint against the state program with the United States Department of Labor.

(e) The Labor Commissioner shall notify the complainant and respondent of his or her determination under subdivision (c) or (d), not later than 60 days after the filing of the complaint.

Determinations by the Labor Commissioner under subdivision (c) or (d) may be appealed by the complainant or respondent to the Director of Industrial Relations within 10 days following notification of the determination. The appeal shall set forth specifically and in full detail the grounds upon which the appealing party considers the Labor Commissioner's determination to be unjust or unlawful, and every issue to be considered by the director. The director may consider any issue relating to the initial determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other provisions of law.

SEC. 2. Section 6304.5 of the Labor Code is amended to read:

6304.5. It is the intent of the Legislature that the provisions of this division, and the occupational safety and health standards and orders promulgated under this code, are applicable to proceedings against employers for the exclusive purpose of maintaining and enforcing employee safety.

Neither the issuance of, or failure to issue, a citation by the division shall have any application to, nor be considered in, nor be admissible into, evidence in any personal injury or wrongful death action, except as between an employee and his or her own employer. Sections 452 and 669 of the Evidence Code shall apply to this division and to occupational safety and health standards adopted under this division in the same manner as any other statute, ordinance, or regulation. The testimony of employees of the division shall not be admissible as expert opinion or with respect to the application of occupational safety and health standards. It is the intent of the Legislature that the amendments to this section enacted in the 1999–2000 Regular Session shall not abrogate the holding in Brock v. State of California (1978) 8l Cal.App.3d 752.

SEC. 3. Section 6309 of the Labor Code is amended to read:

6309. If the division learns or has reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee, it may, of its own motion, or upon complaint, summarily investigate the same with or without notice or hearings. However, if the division secures a complaint from an employee, the employee's representative, including, but not limited to, an attorney, health or safety professional, union representative; or representative of a government agency, or an employer of an employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, it shall, with or without notice or hearing, summarily investigate the same as soon as possible, but not later than three working days after receipt

of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. The division shall attempt to determine the period of time in the future that the complainant believes the unsafe condition may continue to exist, and shall allocate inspection resources so as to respond first to those situations in which time is of the essence. For purposes of this section, a complaint shall be deemed to allege a serious violation if the division determines that the complaint charges that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in a place of employment. When a complaint charging a serious violation is received from a state or local prosecutor, the division shall summarily investigate the employment or place of employment within 24 hours of receipt of the complaint. All other complaints shall be deemed to allege nonserious violations. The division may enter and serve any necessary order relative thereto. The division is not required to respond to any complaint within this period where, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer or is without any reasonable basis.

The division shall keep complete and accurate records of any complaints, whether verbal or written, and shall inform the complainant, whenever his or her identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action. The records of the division shall include the dates on which any action was taken on the complaint, or the reasons for not taking any action on the complaint. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to any alleged violation. The division shall furnish the employee or the representative of employees requesting the review a written statement of the reasons for the division's final disposition of the case.

The name of any person who submits to the division a complaint regarding the unsafeness of an employment or place of employment shall be kept confidential by the division, unless that person requests otherwise.

The requirements of this section shall not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times.

SEC. 4. Section 6400 of the Labor Code is amended to read:

6400. (a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein.

(b) On multiemployer worksites, both construction and nonconstruction, citations may be issued only to the following categories of employers when the division has evidence that an

employee was exposed to a hazard in violation of any requirement enforceable by the division:

(1) The employer whose employees were exposed to the hazard (the exposing employer).

(2) The employer who actually created the hazard (the creating employer).

(3) The employer who was responsible, by contract or through actual practice, for safety and health conditions on the worksite, which is the employer who had the authority for ensuring that the hazardous condition is corrected (the controlling employer).

(4) The employer who had the responsibility for actually correcting the hazard (the correcting employer).

The employers listed in paragraphs (2) to (4), inclusive, of this subdivision may be cited regardless of whether their own employees were exposed to the hazard.

(c) It is the intent of the Legislature, in adding subdivision (b) to this section, to codify existing regulations with respect to the responsibility of employers at multiemployer worksites. Subdivision (b) of this section is declaratory of existing law and shall not be construed or interpreted as creating a new law or as modifying or changing an existing law.

SEC. 5. Section 6423 of the Labor Code is amended to read:

6423. Except where another penalty is specifically provided, every employer and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee, who does any of the following is guilty of a misdemeanor:

(a) Knowingly or negligently violates any standard, order, or special order, or any provision of this division, or of any part thereof in, or authorized by, this part the violation of which is deemed to be a serious violation pursuant to Section 6432.

(b) Repeatedly violates any standard, order, or special order, or provision of this division, or any part thereof in, or authorized by, this part, which repeated violation creates a real and apparent hazard to employees.

(c) Fails or refuses to comply, after notification and expiration of any abatement period, with any such standard, order, special order, or provision of this division, or any part thereof, which failure or refusal creates a real and apparent hazard to employees.

(d) Directly or indirectly, knowingly induces another to commit any of the acts in subdivisions (a), (b), or (c). Any violation of subdivision (a) is punishable by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine.

Any violation of the provisions of subdivision (b), (c), or (d) of this section is punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding fifteen thousand dollars ($15,000), or by both that imprisonment and fine. If the

defendant is a corporation or a limited liability company, the fine may not exceed one hundred fifty thousand dollars ($150,000).

(e) In determining the amount of fine to impose under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

SEC. 6. Section 6425 of the Labor Code is amended to read:

6425. (a) Any employer and any employee having direction, management, control, or custody of any employment, place of employment, or of any other employee, who willfully violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and that violation caused death to any employee, or caused permanent or prolonged impairment of the body of any employee, is guilty of a public offense punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding one hundred thousand dollars ($100,000), or by both that imprisonment and fine; or by imprisonment in the state prison for 16 months, or two or three years, or by a fine of not more than two hundred fifty thousand dollars ($250,000), or by both that imprisonment and fine; and in either case, if the defendant is a corporation or a limited liability company, the fine may not exceed one million five hundred thousand dollars ($1,500,000).

(b) If the conviction is for a violation committed within seven years after a conviction under subdivision (b), (c), or (d) of Section 6423 or subdivision (c) of Section 6430, punishment shall be by imprisonment in state prison for a term of 16 months, two, or three years, or by a fine not exceeding two hundred fifty thousand dollars ($250,000), or by both that fine and imprisonment, but if the defendant is a corporation or limited liability company, the fine may not be less than five hundred thousand dollars ($500,000) or more than two million five hundred thousand dollars ($2,500,000).

(c) If the conviction is for a violation committed within seven years after a first conviction of the defendent for any crime involving a violation of subdivision (a), punishment shall be by imprisonment in the state prison for two, three, or four years, or by a fine not exceeding two hundred fifty thousand dollars ($250,000), or by both that fine and imprisonment, but if the defendant is a corporation or a limited liability company, the fine shall not be less than one million dollars ($1,000,000) but may not exceed three million five hundred thousand dollars ($3,500,000).

(d) In determining the amount of fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the

ability of the defendant to pay, and any other matters the court determines the interests of justice require.

(e) As used in this section, "willfully" has the same definition as it has in Section 7 of the Penal Code. This subdivision is intended to be a codification of existing law.

(f) This section does not prohibit a prosecution under Section 192 of the Penal Code.

SEC. 7. Section 6428 of the Labor Code is amended to read:

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to twenty-five thousand dollars ($25,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

SEC. 8. Section 6429 of the Labor Code is amended to read:

6429. Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than seventy thousand dollars ($70,000) for each violation, but in no case less than five thousand dollars ($5,000) for each willful violation.

(b) Any employer who repeatedly violates any occupational safety or health standard, order, or special order, or of Section 25910 of the Health and Safety Code, shall not receive any adjustment of a penalty assessed pursuant to this section on the basis of the regulations promulgated pursuant to subdivision (c) of Section 6319 pertaining to the good faith of the employer or the history of previous violations of the employer.

(c) The division shall preserve and maintain records of its investigations and inspections and citations for a period of not less than seven years.

SEC. 9. Section 6430 of the Labor Code is amended to read:

6430. (a) Any employer who fails to correct a violation of any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, within the period permitted for its correction shall be assessed a civil penalty of not more than fifteen thousand dollars ($15,000) for each day during which the failure or violation continues.

(b) Notwithstanding subdivision (a), for any employer who submits a signed statement affirming compliance with the abatement terms pursuant to Section 6320, and is found upon a reinspection not to have abated the violation, any adjustment to the civil penalty based on abatement shall be rescinded and the additional civil penalty assessed for failure to abate shall not be adjusted for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

(c) Notwithstanding subdivision (a), any employer who submits a signed statement affirming compliance with the abatement terms pursuant to subdivision (b) of Section 6320, and is found not to have abated the violation, is guilty of a public offense punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding thirty thousand dollars ($30,000), or by both that fine and imprisonment; but if the defendant is a corporation or a limited liability company the fine shall not exceed three hundred thousand dollars ($300,000). In determining the amount of the fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require. Nothing in this section shall be construed to prevent prosecution under any law that may apply.

SEC. 10. Section 6432 of the Labor Code is amended to read:

6432. (a) As used in this part, a "serious violation" shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a violation, including, but not limited to, circumstances where there is a substantial probability that either of the following could result in death or great bodily injury:

(1) A serious exposure exceeding an established permissible exposure limit.

(2) The existence of one or more practices, means, methods, operations, or processes which have been adopted or are in use, in the place of employment.

(b) Notwithstanding subdivision (a), a serious violation shall not be deemed to exist if the employer can demonstrate that it did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(c) As used in this section, "substantial probability" refers not to the probability that an accident or exposure will occur as a result of the violation, but rather to the probability that death or serious physical harm will result assuming an accident or exposure occurs as a result of the violation.

SEC. 11. Section 6434 of the Labor Code is amended to read:

6434. (a) Any civil or administrative penalty assessed pursuant to this chapter against a school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions shall be deposited with the Workplace Health and Safety Revolving Fund established pursuant to Section 78.

(b) Any school district, county board of education, county superintendent of schools or charter school community college district, California State University, University of California, or joint

powers agency performing education functions may apply for a refund of their civil penalty, with interest, if all conditions previously cited have been abated, they have abated any other outstanding citation, and if they have not been cited by the division for a serious violation at the same school within two years of the date of the original violation. Funds not applied for within two years and six months of the time of the original violation shall be expended as provided for in Section 78 to assist schools in establishing effective occupational injury and illness prevention programs.

SEC. 12. Section 6719 is added to the Labor Code, to read:

6719. The Legislature reaffirms its concern over the prevalence of repetitive motion injuries in the workplace and reaffirms the Occupational Safety and Health Standards Board's continuing duty to carry out Section 6357.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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.

CHAPTER 616

An act to add Chapter 10 (commencing with Section 1138) to Part 3 of Division 2 of the Labor Code, relating to labor disputes.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Chapter 10 (commencing with Section 1138) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 10. UNLAWFUL ACTS DURING LABOR DISPUTES

1138. No officer or member of any association or organization, and no association or organization, participating or interested in a labor dispute, shall be held responsible or liable in any court of this state for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of those acts.

1138.1. (a) No court of this state shall have authority to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, except after hearing the testimony of witnesses

in open court, with opportunity for cross-examination, in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, of all of the following:

(1) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorized those acts.

(2) That substantial and irreparable injury to complainant's property will follow.

(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief.

(4) That complainant has no adequate remedy at law.

(5) That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection.

(b) The hearing shall be held after due and personal notice thereof has been given, in the manner that the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. However, if a complainant also alleges that, unless a temporary restraining order is issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective for no longer than five days and shall become void at the expiration of those five days. No temporary restraining order shall be issued unless the judicial officer issuing the temporary restraining order first hears oral argument from the opposing party or opposing party's attorney, except in the instances specified in subparagraphs (B) and (C) of paragraph (2) of subdivision (c) of Section 527 of the Code of Civil Procedure. No temporary restraining order or temporary injunction shall be issued except on the condition that the complainant first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of the order or injunction, including all reasonable costs, together with a reasonable attorney's fee, and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

(c) The undertaking shall be an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against the complainant and surety, upon a hearing to assess damages of which hearing the complainant and surety shall have reasonable notice, the complainant and surety submitting themselves to the jurisdiction of the court for that purpose. Nothing contained in this section shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his or her ordinary remedy by suit at law or in equity.

1138.2. No restraining order or injunctive relief shall be granted to any complainant involved in the labor dispute in question who has failed to comply with any obligation imposed by law, or who has failed to make every reasonable effort to settle that dispute either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration.

1138.3. No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of the restraining order or injunction; and every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of the specific act or acts as may be expressly complained of in the complaint or petition filed in such case and as shall be expressly included in findings of fact made and filed by the court.

1138.4. The term "labor dispute" as used in this chapter has the same meaning as set forth in clauses (i), (ii), and (iii) of paragraph (4) of subdivision (b) of Section 527.3 of the Code of Civil Procedure.

1138.5. Sections 1138.1, 1138.2, and 1138.3 shall not apply to any peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

CHAPTER 617

An act to amend Sections 5802, 5806, and 5814 of, and to add and repeal Section 5814.5 of, the Welfare and Institutions Code, relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Recent estimates indicate that there are 50,000 homeless severely mentally ill Californians, including 10,000 to 20,000 homeless mentally ill veterans.

(b) When people who suffer from severe mental illness do not have access to the services they require they frequently enter the criminal justice system. However, those who receive extensive community treatment are much less frequently incarcerated. The Department of Corrections is expending $400 million annually for the incarceration and treatment of people suffering from severe mental illness. In addition, the Department of Corrections and the criminal justice system are responsible for the placement of more than 3,000 of the total of approximately 4,500 persons in the state mental hospitals, for an additional annual state cost of over $300 million.

(c) Increasing funding for an adult mental health system of care will result in significantly reduced Department of Corrections, criminal justice system, and local law enforcement expenditures for people with severe mental illness.

SEC. 2. Section 5802 of the Welfare and Institutions Code is amended to read:

5802. (a) The Legislature finds that a mental health system of care for adults and older adults with severe and persistent mental illness is vital for successful management of mental health care in California. Specifically:

(1) A comprehensive and coordinated system of care includes community-based treatment, outreach services and other early intervention strategies, case management, and interagency system components required by adults and older adults with severe and persistent mental illness.

(2) Mentally ill adults and older adults receive service from many different state and county agencies, particularly criminal justice, employment, housing, public welfare, health, and mental health. In a system of care these agencies collaborate in order to deliver integrated and cost-effective programs.

(3) The recovery of persons with severe mental illness and their financial means are important for all levels of government, business, and the community.

(4) System of care services which ensure culturally competent care for persons with severe mental illness in the most appropriate, least restrictive level of care are necessary to achieve the desired performance outcomes.

(5) Mental health service providers need to increase accountability and further develop methods to measure progress towards client outcome goals and cost effectiveness as required by a system of care.

(b) The Legislature further finds that the adult system of care model, beginning in the 1989–90 fiscal year through the implementation of Chapter 982 of the Statutes of 1988, provides

models for adults and older adults with severe mental illness that can meet the performance outcomes required by the Legislature.

(c) The Legislature also finds that the system components established in adult systems of care are of value in providing greater benefit to adults and older adults with severe and persistent mental illness at a lower cost in California.

(d) Therefore, using the guidelines and principles developed under the demonstration projects implemented under the adult system of care legislation in 1989, it is the intent of the Legislature to accomplish the following:

(1) Encourage each county to implement a system of care as described in this legislation for the delivery of mental health services to seriously mentally disordered adults and older adults.

(2) To promote system of care accountability for performance outcomes which enable adults with severe mental illness to reduce symptoms which impair their ability to live independently, work, maintain community supports, care for their children, stay in good health, not abuse drugs or alcohol, and not commit crimes.

(3) Maintain funding for the existing pilot adult system of care programs that meet contractual goals as models and technical assistance resources for future expansion of system of care programs to other counties as funding becomes available.

(4) Provide funds for counties to establish outreach programs and to provide mental health services and related medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and other nonmedical programs necessary to stabilize homeless mentally ill persons or mentally ill persons at risk of being homeless, get them off the street, and into treatment and recovery, or to provide access to veterans' services that will also provide for treatment and recovery.

SEC. 3. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards include but are not limited to:

(a) A service planning process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic and citizen constituency groups as determined by the director.

(2) Plans for services including outreach, design of mental health services, coordination and access to medications, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, which shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited English speaking ability and cultural differences.

(3) Provisions for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(b) Each client shall have either a clearly designated mental health case manager or a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and follow through of services, and necessary advocacy to ensure each client receives those services which are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions which affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

SEC. 4. Section 5814 of the Welfare and Institutions Code is amended to read:

5814. (a) (1) This part shall be implemented only to the extent that funds are appropriated for purposes of this part. To the extent that funds are made available, the first priority shall go to maintain funding for the existing programs that meet adult system of care contract goals.

(2) The director shall establish a methodology for awarding grants under this part consistent with the legislative intent expressed in Section 5802, and in consultation with the advisory committee established in this subdivision.

(3) The director shall establish an advisory committee for the purpose of providing advice regarding the development of criteria for the award of grants, and the identification of specific performance measures for evaluating the effectiveness of grants. The committee shall include, but not be limited to, representatives from state, county, and community veterans' services and disabled veterans outreach programs, supportive housing and other housing assistance programs, law enforcement, county mental health and private providers of local mental health services and mental health outreach services, the Board of Corrections, the State Department of Alcohol and Drug Programs, local substance abuse services providers, the Department of Rehabilitation, providers of local employment services, the Mental Health Association of California, the California Alliance for the Mentally Ill, the California Network of Mental Health Clients, and the Mental Health Planning Council.

(4) The criteria for the award of grants shall include, but not be limited to, all of the following:

(A) A description of a comprehensive strategic plan for providing outreach, prevention, intervention, and evaluation in a cost appropriate manner corresponding to the criteria specified in subdivision (c).

(B) A description of the local population to be served, ability to administer an effective service program, and the degree to which local agencies and advocates will support and collaborate with program efforts.

(b) In each year in which additional funding is provided by the State Budget the department shall establish demonstration programs that offer individual counties sufficient funds to comprehensively serve severely mentally ill adults who are homeless, recently released from a county jail or the state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness

unless treatment is provided to them and who are severely mentally ill adults. For purposes of this subdivision, "severely mentally ill adults" are those individuals described in subdivision (b) of Section 5600.3. In consultation with the advisory committee established pursuant to paragraph (3) of subdivision (a), the department shall report to the Legislature on or before May 1, 2000, and shall evaluate, at a minimum, the effectiveness of the strategies in providing successful outreach and reducing homelessness, involvement with local law enforcement, and other measures identified by the department. The evaluation shall include, as much of the following as available information permits:

(1) The number of persons served, and of those, the number who are able to maintain housing, and the number who receive extensive community mental health services.

(2) The number of persons with contacts with local law enforcement and the extent to which local and state incarceration has been reduced or avoided.

(3) The number of persons participating in employment service programs including competitive employment.

(4) The number of persons contacted in outreach efforts who appear to be severely mentally ill, as described in Section 5600.3, who have refused treatment after completion of all applicable outreach measures.

(5) The amount of hospitalization that has been reduced or avoided.

(c) Each demonstration project shall include outreach and service grants in accordance with a contract between the state and approved counties that reflects the number of anticipated contacts with people who are homeless or at risk of homelessness, and the number of those who are severely mentally ill and who are likely to be successfully referred for treatment and will remain in treatment until successfully discharged.

(e) (1) As used in this part, "receiving extensive mental health services" means having a case manager, as described in subdivision (b) of Section 5806, and having an individual personal service plan, as described in subdivision (c) of Section 5806.

(2) The funding provided pursuant to this part shall be sufficient to provide mental health services, medically necessary medications to treat severe mental illnesses, alcohol and drug services, supportive housing and other housing assistance, vocational rehabilitation, money management assistance for accessing other health care and obtaining federal income and housing support, accessing veterans' services, and stipends to attract and retain sufficient numbers of qualified professionals as necessary to provide the necessary levels of these services. These grants shall, however, pay for only that portion of the costs of those services not otherwise provided by federal funds or other state funds.

(f) Contracts awarded pursuant to this part shall be exempt from the Public Contract Code and the state administrative manual and shall not be subject to the approval of the Department of General Services.

(g) Notwithstanding any other provision of law, funds awarded to counties pursuant to this part and Part 4 (commencing with Section 5850) shall not require a local match in funds.

SEC. 5. Section 5814.5 is added to the Welfare and Institutions Code, to read:

5814.5. (a) Of the funds appropriated pursuant to Schedule (a) of Item 4440-101-0001 of the Budget Act of 1999, the sum of ten million dollars ($10,000,000) shall be allocated in accordance with the following schedule:

(1) The sum of five hundred thousand dollars ($500,000) shall be reappropriated in augmentation of Schedule (a) of Item 4440-001-0001 of the Budget Act of 1999 to provide for departmental support for the additional administrative costs associated with the augmentation contained in paragraph (2). Specifically, this amount shall be utilized by the State Department of Mental Health to provide for its administration of these programs, and to work together with the Department of Finance, the Department of Corrections, the Board of Corrections, state associations representing law enforcement and local government, and the Legislative Analyst, in order to collect and evaluate the program performance and cost data pertaining to these programs.

(2) The sum of nine million five hundred thousand dollars ($9,500,000) is hereby allocated in augmentation of Item 4440-101-0001 of the Budget Act of 1999, to be awarded by the department in the 1999–2000 fiscal year, for up to three counties or portions of counties, that demonstrate that the county can provide comprehensive services, as set forth in this part, to a substantial number of adults who are severely mentally ill, as defined in Section 5600.3, and are homeless or recently released from the county jail or who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided.

(b) (1) Counties eligible for funding pursuant to paragraph (2) of subdivision (a) shall be those that have existing integrated adult service programs that meet the criteria for an adult system of care, as set forth in Section 5806, and that have, or can develop, integrated forensic programs with similar characteristics for parolees and those recently released from county jail who meet the target population requirements of Section 5600.3 and are at risk of incarceration unless the services are provided. Local enrollment for integrated adult service programs and for integrated forensic programs funded pursuant to paragraph (2) of subdivision (a) shall adhere to all conditions set forth by the department, including the total number of clients to be enrolled, the providers to which clients are enrolled and the maximum cost for each provider, the maximum number of

clients to be served at any one time, the outreach and screening process used to identify enrollees, and the total cost of the program. Local enrollment of each individual for integrated forensic programs shall be subject to the approval of the county mental health director or his or her designee.

(2) Each county shall ensure that funds provided by these grants are used to provide new services in accordance with the purpose for which they were appropriated and allocated, and that none of these funds shall be used to supplant existing services to severely mentally ill adults. In order to ensure that this requirement is met, the department shall develop methods and contractual requirements, as it determines necessary. At a minimum, these assurances shall include that state and federal requirements regarding tracking of funds are met and that patient records are maintained in such a manner as to protect privacy and confidentiality, as required under federal and state law.

(c) Each county selected to receive a grant pursuant to this section shall provide data as the department may require, that demonstrates the outcomes of these adult system of care programs, shall specify the additional numbers of severely mentally ill adults to whom they will provide comprehensive services for each million dollars of additional funding that may be awarded through either an integrated adult service grant or an integrated forensic grant, and shall agree to provide services in accordance with Section 5806.

(d) 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. 6. The Department of Corrections and the State Department of Mental Health may jointly develop a coordinated strategy, including written protocols, to maximize the efficiency and cost-effectiveness of services to severely mentally ill parolees. Upon request by the Director of Corrections, the Director of Finance, upon legislative notification, may transfer funds from Provisions 15, 17, 19, and 20 of Item 5240-001-0001 of the Budget Act of 1999 to Provisions 13 to 20, inclusive, of Item 5240-001-0001 of the Budget Act of 1999 or to Schedule (a) of Item 4440-101-0001 of the Budget Act of 1999 in an agreed upon amount to enhance services that reduce the recidivism rate of mentally ill parolees, who, without the services and support provided pursuant to Part 3 (commencing with Section 5800) of Division 5 of the Welfare and Institutions Code, are at significant risk of incarceration.

SEC. 7. In consultation with the committee specified in paragraph (3) of subdivision (a) of Section 5814 of the Welfare and Institutions Code, the State Department of Mental Health shall establish the selection criteria and reporting requirements for future integrated adult service programs and integrated forensic programs

under Section 5814.5 of the Welfare and Institutions Code, if additional funding becomes available.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the State Department of Mental Health to have the program established and grants awarded within the time frames set forth in this act, and to ensure that the state is able to begin promptly achieving reductions in incarceration and homelessness in accordance with this measure, it is essential that this act take effect immediately.

CHAPTER 618

An act to add Article 16.6 (commencing with Section 1758.8) to Chapter 5 of Part 2 of Division 1 of the Insurance Code, relating to rental car insurance.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 16.6 (commencing with Section 1758.8) is added to Chapter 5 of Part 2 of Division 1 of the Insurance Code, to read:

Article 16.6. Rental Car Agents

1758.8. (a) No rental car company shall offer or sell insurance unless it is licensed as an insurance agent or broker pursuant to Article 3 (commencing with Section 1631) or has complied with the requirements of this article and has been issued a license by the commissioner as provided in this article.

(b) The commissioner may issue to a rental car company, or to a franchisee of a rental car company, that has complied with the requirements of this article, a license that authorizes the rental car company or the franchisee of a rental car company to act as a rental car agent to offer or sell those types of insurance specified in Section 1758.85, in connection with and incidental to rental agreements, on behalf of any insurer authorized to write those types of insurance in this state.

1758.81. (a) An applicant for a rental car agent license under this article shall file the following documents with the commissioner:

(1) A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the rental car agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent limited to this purpose and that the insurer will appoint the applicant to act as its agent to transact the kind or kinds of insurance that are permitted by this article, if the rental car agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(3) An application fee, and each license period thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department's actual cost of processing the application or renewal and implementing this article.

(b) Notwithstanding any other provision of law to the contrary, Sections 1667, 1668, 1668.5, 1669, 1670, 1738, and 1739 apply to any application for or issuance of a license pursuant to this article.

(c) Costs associated with any enforcement action or investigation shall be paid for by the person or organization licensed pursuant to this article.

1758.82. (a) An employee of a rental car company or franchisee of a rental car company that has been issued a rental car agent license pursuant to this article may be an endorsee authorized to offer insurance products under the authority of the rental car agent license if all of the following conditions have been met:

(1) The employee is 18 years of age or older.

(2) The rental car company, at the time it submits its rental car agent license application pursuant to Section 1758.81, also establishes a list of the names of all endorsees to its rental car agent license. The list shall be maintained by the rental car company in a form prescribed by the commissioner and updated annually. The list shall be retained by the rental car company for three years and made available to the commissioner for review and inspection.

(3) The rental car company submits to the commissioner with its initial rental car agent license application and annually thereafter a certification, subscribed by an officer of the company on a form prescribed by the commissioner, stating all of the following:

(A) The number of endorsees offering insurance products under the authority of the rental car agent license for the applicable period.

(B) A statement that no person other than an endorsee sells or offers insurance on its behalf.

(C) That all endorsees have completed training as required by this article.

(b) Each rental car company licensed pursuant to this article shall provide for the training of its endorsees prior to allowing its

endorsees to offer or sell insurance products. The training shall meet the following minimum standards:

(1) Each rental car endorsee shall receive instruction about the types of insurance specified in Section 1758.85 that are offered for sale to prospective renters.

(2) Each rental car endorsee shall receive training about ethical sales practices.

(3) Each rental car endorsee shall receive training about the disclosures to be given to prospective renters pursuant to subdivision (c) of Section 1758.86.

(c) Training materials used by or on behalf of the rental car company to train its endorsees shall be submitted to the department at the time the rental car company applies for a license under this article, and whenever modified thereafter. Any changes to previously submitted training materials shall be submitted to the department with the changes highlighted 30 days prior to their use by the licensee. Training materials and changes to those materials submitted to the department pursuant to this subdivision shall be deemed approved for use by the company unless it is notified by the department to the contrary. Failure by a rental car company to submit training materials or changes for departmental review or use of unapproved or disapproved training materials shall constitute grounds for denial of an application for a license, nonrenewal of a license, or suspension of a license, as appropriate.

(d) The rental car company shall periodically retrain its endorsees on the subject matter described in subdivision (b), as prescribed by the commissioner.

1758.83. (a) The manager at each location of a rental car company or a franchisee of a rental car company licensed pursuant to this article, or the direct supervisor of the company's endorsees at each location or region shall be an endorsee and shall be responsible for the supervision of each additional endorsee at that location or region. Each licensee shall identify the endorsee who is the manager or supervisor at each location for the purposes of this article.

(b) An endorsee may act on behalf and under the supervision of the rental car agent in matters relating to transacting insurance under that agent's license. The conduct of an endorsee of a rental car agent acting within the scope of employment or agency shall be deemed the conduct of the rental car agent for purposes of this article.

1758.84. (a) If a licensee or endorsee violates any provision of this article or any other provision of this code, the commissioner may do any of the following:

(1) After notice and hearing, suspend or revoke the license of the rental car agent.

(2) After notice and hearing impose fines on the rental car agent for its conduct or that of its endorsees.

(3) After notice and hearing, impose other penalties, that the commissioner deems necessary and convenient to carry out the purpose of this code, including suspending the privilege of transacting insurance at specific rental locations where violations have occurred, and suspending or revoking the endorsement of individual endorsees or manager endorsees.

(b) If any person sells insurance in connection with, or incidental to, rental car agreements or holds himself or herself or an organization out as a rental car agent without obtaining the license required by this article, or as being an endorsee when that person is not an endorsee, or as being licensed pursuant to Chapter 5 (commencing with Section 1631) without obtaining that license, the commissioner may issue a cease and desist order pursuant to Section 12921.8.

(c) Notwithstanding any other provision of law to the contrary, the provisions of Section 1748.5 are applicable to both the rental car agent and any endorsee to the license of the rental car agent.

1758.85. A rental car company or franchisee licensed under this article may act as a rental car agent for an authorized insurer only in connection with the rental of vehicles and only with respect to the following kinds of insurance:

(a) Personal accident insurance for renters and other rental vehicle occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental vehicle during the rental period.

(b) Liability insurance, which may include uninsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides coverage to the renters and to other authorized drivers of a rental vehicle and is nonduplicative of any standard liability coverage or self-insurance limits provided by the rental company in its rental agreement, for liability arising from the negligent operation of the rental vehicle during the rental period.

(c) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental vehicle during the rental period.

(d) Roadside assistance insurance.

(e) Emergency sickness insurance.

1758.851. The insurance products listed in Section 1758.85 that are sold in conjunction with a vehicle rental are not transferable and do not apply to any vehicle not listed in the rental contract issued.

1758.86. A rental car agent shall not sell insurance pursuant to this article unless all of the following conditions are satisfied:

(a) The rental period of the rental agreement does not exceed 30 consecutive days, except for any renewals or extension of the original rental period.

(b) The rental car agent provides brochures or other written materials to the prospective renter that do all of the following:

(1) Summarize the material terms and conditions of coverage offered to renters, including the identity of the insurer.

(2) Describe the process for filing a claim, including a toll-free telephone number to report a claim.

(3) Disclose any additional information on the price, benefits, exclusions, conditions, or other limitations of those policies that the commissioner may by rule prescribe.

(4) Provide the licensee's name, address, telephone number, and license number, as well as the availability of the department's toll-free consumer hotline.

(c) The rental car agent or its endorsee makes all of the following disclosures to the renter, which shall be acknowledged in writing by the renter, or displayed by clear and conspicuous signs that are posted at every location where rental agreements are executed, such as the counter where the renter signs the rental agreement:

(1) That the purchase by the renter of the kinds of insurance prescribed in this article is not required in order to rent a vehicle.

(2) That the insurance policies offered by the rental car agent may provide a duplication of coverage already provided by a renter's personal automobile insurance policy or by another source of coverage.

(3) That the endorsee on the rental car agent's license is not qualified or authorized to evaluate the adequacy of the purchaser's existing insurance coverages.

(d) Evidence of coverage is stated on the face of the rental agreement or evidence of coverages provided to every renter who elects to purchase that coverage is indicated to the renter.

(e) The insurance is provided under an individual policy issued to the purchaser, or under a group, or master policy issued to an organization licensed as a rental car agent by an insurer authorized to transact the applicable kinds or types of insurance in this state.

1758.861. A licensee shall not be required to treat moneys collected from renters purchasing insurance, pursuant to this article, as funds received in a fiduciary capacity if the insurer represented by the licensee has provided in writing that the funds need not be segregated from funds received by the rental car company on account of vehicle rental and the charges for insurance coverage are itemized and incorporated as part of the rental agreement.

1758.87. A rental car agent shall not do any of the following:

(a) Offer to sell insurance except in conjunction with, and incidental to, authorized rental agreements.

(b) Advertise, represent, or otherwise portray itself or its employees or endorsees as licensed insurers, life agents, or fire and casualty broker-agents.

(c) Pay an endorsee any compensation, fee, or commission dependent on the placement of insurance under the agent's license. Nothing in this code shall prohibit the payment of a "performance-related incentive." For the purposes of this

subdivision, a "performance-related incentive" is not a commission as otherwise defined. A "performance-related incentive" is money or other tangible or intangible items of value paid or given to any endorsee of the licensee which is not based solely on the offering or selling of the insurance products listed in Section 1758.85.

1758.88. Any insurer that provides insurance to be sold by a rental car company or franchisee of a rental car company under this article shall file a copy of any individual policy issued to a purchaser, or any policy or certificate issued under a group or master policy to an organization licensed as a rental car agent, with the commissioner, who shall make that policy available to the public.

1785.89. As used in this article, the following definitions have the following meanings:

(a) (1) "License period" means all of that two-year period beginning as described in subparagraph (A) or (B) of paragraph (2), as applicable, and ending the second succeeding year on the last calendar day of the month in which the initial license was issued.

(2) A license period shall be determined for each person as follows:

(A) Upon initial licensing, the license period starts on the date the license is issued.

(B) Subsequently, the license period starts the first day of the month following the month in which the initial license was issued.

(3) A license is required to be renewed on or before the expiration date of the license period.

(b) "Rental vehicle" or "vehicle" means a motor vehicle operated by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:

(1) A private passenger motor vehicle, including a passenger van, minivan, or sports utility vehicle.

(2) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than 26,000 pounds.

(c) "Renter" means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

(d) "Rental car company" means any person in the business of renting vehicles to the public.

(e) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental car company.

(f) "Rental car agent" means a person or organization licensed pursuant to this article to offer insurance in connection with and incidental to rental car agreements on behalf of an insurer authorized to write those types of insurance in this state.

(g) "Endorsee" means an unlicensed employee of a rental car agent who meets the requirements of this article.

1758.891. Until January 1, 2001, a rental car company or a franchisee of a rental car company shall not be required to obtain a license to offer the insurance products described in Section 1758.85.

SEC. 2. The Insurance Commissioner shall adopt rules to implement this act, which may include fee differentials for smaller rental car companies. The rules shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of rules shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 3. Until January 1, 2001, a rental car company or a franchisee of a rental car company shall not be required to obtain a license to offer the insurance products described in Section 1758.85 of the Insurance Code.

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.

CHAPTER 619

An act to add Section 17156 to the Revenue and Taxation Code, relating to miscarriage of justice, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The Legislature makes the following findings and declarations:

(1) On September 30, 1979, Kevin Lee Green's wife, Dianna Green, was attacked and brutally bludgeoned.

(2) Dianna Green was nine months pregnant with Kevin Lee Green's baby at the time of the attack.

(3) Dianna and Kevin Lee Green's unborn baby died as a result of the attack on Dianna Green.

(4) Dianna Green was in a coma for one month following the attack, and emerged from the coma unable to remember many

details from her past, and having suffered considerable brain damage.

(5) Kevin Lee Green was charged with the murder of his unborn child and the attempted murder of his wife.

(6) Dianna Green, despite having suffered serious brain damage in the attack, and despite having lost much of her memory, was the main witness for the prosecution against Kevin Lee Green.

(7) Kevin Lee Green at all times maintained his innocence and told police and testified that on the night of the attack he went out to get a hamburger and returned approximately 20 minutes later to find his wife on the bed nearly beaten to death.

(8) Kevin Lee Green further testified that, after he returned to his home, he saw a man in a dark van hastily leaving the scene of the crime.

(9) On October 2, 1980, Kevin Lee Green was convicted by a jury in Orange County Superior Court of one count of second degree murder, one count of attempted murder, and two counts of assault with a deadly weapon.

(10) Kevin Lee Green was sentenced to serve 15 years to life in prison for the attack on his wife and death of his unborn baby.

(11) At the time of the attack on Dianna Green, Kevin Lee Green was a corporal in the United States Marine Corps. Kevin Lee Green had intended to make a career of his military service, emulating his father. As a result of the conviction, Kevin Lee Green suffered the further indignity of being discharged from the United States Marine Corps on a less than honorable basis, thereby preventing him from completing his chosen career and from receiving retirement and other military benefits.

(12) Through DNA evidence and a full confession by Gerald Parker, the man who was actually guilty of the attack on Dianna Green, it has been conclusively established that Kevin Lee Green was not guilty of any of the charges against him.

(13) As a result of the DNA evidence and the full confession of Gerald Parker, on June 20, 1996, the Honorable Robert Fitzgerald, Judge of the Superior Court for the County of Orange, granted Kevin Lee Green's petition for writ of habeas corpus and ordered Kevin Lee Green immediately released from prison.

(14) The Honorable Robert Fitzgerald further found and ordered that Kevin Lee Green was factually innocent of all charges and that all allegations against him relating to the September 30, 1979, attack on Dianna Green were untrue.

(15) Despite the knowledge that his chances for parole would be greatly increased if he falsely evinced remorse for a crime that he knew he did not commit, Kevin Lee Green refused to lie.

(16) During his incarceration, Kevin Lee Green was denied parole on four separate occasions on account of the fact that he steadfastly maintained his innocence and protested that he had been wrongly accused.

(17) While incarcerated, Kevin Lee Green attempted, unsuccessfully, to raise the money to obtain his own DNA test in order to reopen his case, and despite the fact that court records showed that Kevin Lee Green passed at least one, and perhaps another, polygraph test before his trial took place, police investigators ignored his requests to reopen his case.

(18) Kevin Lee Green consequently spent approximately 17 years, from age 21 to 37, in prison for crimes he did not commit.

(19) During his incarceration, Kevin Lee Green missed the funerals of both of his grandmothers, and his grandfather, and the weddings of his brother and his sister.

(20) Under current California law, the maximum amount Kevin Lee Green may receive in recompense for his unjust, tragic incarceration is ten thousand dollars ($10,000).

(21) Considering the totality of the circumstances, even though there is no legally responsible entity that is liable to Mr. Green, equity and justice dictate that a miscarriage of justice occurred and that agents of the state unknowingly participated in that miscarriage of justice.

(b) It is the intent of the Legislature, by enacting this act, to hereby recompense Kevin Lee Green for having been the victim of a miscarriage of justice as outlined in subdivision (a).

(c) The sum of six hundred twenty thousand dollars ($620,000) is hereby appropriated from the General Fund to the Department of Justice for payment to Kevin Lee Green as compensation for having been the victim of a miscarriage of justice.

(d) The Controller is hereby directed to draw warrants upon the General Fund in the sum of six hundred twenty thousand dollars ($620,000) in favor of Kevin Lee Green, and the Treasurer is hereby directed to pay the same out of funds in the General Fund not otherwise appropriated.

SEC. 2. Section 17156 is added to the Revenue and Taxation Code, to read:

17156. (a) Gross income shall not include any amount received as compensation in any taxable year by a taxpayer pursuant to Assembly Bill 110 of the 1999–2000 Regular Session.

(b) This section shall apply to taxable years beginning on or after January 1, 1999.

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:

Through no one's fault, an innocent man was wrongfully incarcerated and had spent approximately 17 years of productive life taken from him, despite his continual statements of his innocence. This bill seeks to offer a degree of compensation for those lost years.

In order to rectify an egregious wrong as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 620

An act to amend Section 911.4 of the Government Code, and to amend Section 396 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 911.4 of the Government Code is amended to read:

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.

(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application.

(c) In computing the one-year period under subdivision (b), time during which the person who sustained the alleged injury, damage, or loss as a minor shall be counted, but the time during which he or she is mentally incapacitated and does not have a guardian or conservator of his or her person shall not be counted.

(d) In addition, the time shall not be counted during which the person is detained or adjudged to be a dependent child of the juvenile court under the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code), if both of the following conditions exist:

(1) The person is in the custody and control of an agency of the public entity to which a claim is to be presented.

(2) The public entity or its agency having custody and control of the minor is required by statute or other law to make a report of injury, abuse, or neglect to either the juvenile court or the minor's attorney, and that entity or its agency fails to make this report within the time required by the statute or other enactment, with this time period to commence on the date on which the public entity or its agency becomes aware of the injury, neglect, or abuse. In circumstances where the public entity or its agency makes a late report, the claim period shall be tolled for the period of the delay caused by the failure to make a timely report.

SEC. 2. Section 396 of the Welfare and Institutions Code is amended to read:

396. It is the policy of the Legislature that foster care should be a temporary method of care for the children of this state, that children have a right to a normal home life free from abuse, that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship is more suitable to a child's well-being than is foster care, that this state has a responsibility to attempt to ensure that children are given the chance to have happy and healthy lives, and that, to the extent possible, the current practice of moving children receiving foster care services from one foster home to another until they reach the age of majority should be discontinued.

CHAPTER 621

An act to amend Section 417.25 of, and to add Section 417.27 to, the Penal Code, relating to lasers.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 417.25 of the Penal Code is amended to read:

417.25. (a) Every person who, except in self-defense, aims or points a laser scope, as defined in subdivision (b), or a laser pointer, as defined in subdivision (c), at another person in a threatening manner with the specific intent to cause a reasonable person fear of bodily harm is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 30 days. For purposes of this section, the laser scope need not be attached to a firearm.

(b) As used in this section, "laser scope" means a portable battery-powered device capable of being attached to a firearm and capable of projecting a laser light on objects at a distance.

(c) As used in this section, "laser pointer" means any hand held laser beam device or demonstration laser product that emits a single point of light amplified by the stimulated emission of radiation that is visible to the human eye.

SEC. 2. Section 417.27 is added to the Penal Code, to read:

417.27. (a) No person, corporation, firm, or business entity of any kind shall knowingly sell a laser pointer to a person 17 years of age or younger, unless he or she is accompanied and supervised by a parent, legal guardian, or any other adult 18 years of age or older.

(b) No student shall possess a laser pointer on any elementary or secondary school premises unless possession of a laser pointer on the

elementary or secondary school premises is for a valid instructional or other school-related purpose, including employment.

(c) No person shall direct the beam from a laser pointer directly or indirectly into the eye or eyes of another person or into a moving vehicle with the intent to harass or annoy the other person or the occupants of the moving vehicle.

(d) No person shall direct the beam from a laser pointer directly or indirectly into the eye or eyes of a guide dog, signal dog, service dog, or dog being used by a peace officer with the intent to harass or annoy the animal.

(e) A violation of subdivision (a), (b), (c), or (d) shall be an infraction that is punished by either a fine of fifty dollars ($50) or four hours of community service, and a second or subsequent violation of any of these subdivisions shall be an infraction that is punished by either a fine of one hundred dollars ($100) or eight hours of community service.

(f) As used in this section, "laser pointer" has the same meaning as set forth in subdivision (c) of Section 417.25.

(g) As used in this section, "guide dog," "signal dog," and "service dog," respectively, have the same meaning as set forth in subdivisions (d), (e), and (f) of Section 365.5.

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.

CHAPTER 622

An act to add Section 17317 to the Education Code, relating to school facilities.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds and declares the following:

(a) California's "lucky streak" of not having an earthquake during school hours is still enjoyed today, but that good fortune cannot be relied on forever. It is likely that a damaging earthquake will strike the state during school hours in the future, and if it does, pupils are likely to be harmed due to partial or full structural collapse, as well

as due to nonstructural failures of some older buildings that have been approved pursuant to the Field Act.

(b) Fifty percent of the state's 60,000 school buildings housing pupils in kindergarten and grades 1 to 12, inclusive, that have been approved pursuant to the Field Act, were built prior to 1976 when significant seismic requirements were added to the regulations for the Field Act. As a result, a major earthquake may cause significant loss of school functions, property damage, and injuries to pupils and teachers. A small but significant number of schools approved pursuant to the Field Act are prone to collapse because they were built in accordance with older regulations that are now considered obsolete.

(c) Before any meaningful solution may be developed, the scope of the problem needs to be quantified. This measure would do just that, which in turn will enable policymakers to make informed, cost-effective decisions to address the problem.

(d) Studies have been completed for hospitals, bridges, state and local governments, and community colleges. It is reasonable to do the same using the same methodology for schools that house pupils enrolled in kindergarten and grades 1 to 12, inclusive.

SEC. 2. Section 17317 is added to the Education Code, to read:

17317. The Department of General Services shall, in consultation with the Seismic Safety Commission, conduct an inventory of public school buildings that are concrete tilt-up school buildings and school buildings with nonwood frame walls that do not meet the minimum requirements of the 1976 Uniform Building Code. Priority shall be given to the school buildings identified in the act that added this section that are in the highest seismic risk zones in accordance with the seismic hazard maps of the Division of Mines and Geology of the Department of Conservation.

(b) The Department of General Services shall submit a report by December 31, 2001, to the Legislature and the Governor that summarizes the findings of the seismic safety inventory and makes recommendations about future actions that should be taken to address the problems found by the seismic safety inventory. The report shall not identify individual schoolsites on which inventoried school buildings are located.

SEC. 3. It is the intent of the Legislature that the Department of General Services shall pursue nonstate funding of up to five hundred thousand dollars ($500,000) for the purposes of conducting a seismic safety inventory pursuant to Section 17317 of the Education Code to identify the most vulnerable school buildings in the state. If the Department of General Services is not able to secure sufficient nonstate funding, it shall seek funding from the Legislature through future Budget Acts or other legislation.

CHAPTER 623

An act to amend Sections 44227, 44253, 44259, 44275.3, 44283.2, 44305, and 44831 of the Education Code, relating to teachers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44227 of the Education Code is amended to read:

44227. (a) The commission may approve any institution of higher education whose teacher education program meets the standards prescribed by the commission, to recommend to the commission the issuance of credentials to persons who have successfully completed those programs.

(b) Notwithstanding any provision of law to the contrary, the commission may approve for credit any coursework completed for credential purposes or for step increases in programs offered in California by out-of-state institutions of higher education that meet the requirements prescribed by Section 94761 only if the program of courses is offered by a regionally accredited institution and evidence of satisfactory evaluation by both that accrediting body and the Western Association of Schools and Colleges is submitted by the out-of-state institution to the commission for purposes of seeking approval of the program and any courses within that program for the purposes of obtaining a credential in California.

(c) Out-of-state applicants shall meet the following requirements for the preliminary multiple or single subject teaching credential:

(1) A baccalaureate or higher degree from an accredited institution of postsecondary education.

(2) The completion of a teacher training program approved by the applicable state agency.

(3) The verification of subject matter competence either through an examination, or by the completion of an approved program or the equivalent of an approved program.

(4) The completion of a course or, for multiple subject credentials, a course or an examination, on the various methods of teaching reading.

(5) Passage of the state basic skills proficiency test.

(6) The completion of a course or an examination on the United States Constitution.

(7) Commencing January 1, 2000, successful completion of a commission-approved program, course, or examination in the use of computers in the classroom, as set forth in Section 44259.

(d) Out-of-state applicants shall meet the following requirements for the clear multiple or single subject teaching credential:

(1) A fifth year of study, or an approved induction program pursuant to Section 44259.

(2) The study of education, including the study of physiological and sociological effects of the abuse of alcohol, narcotics, drugs, and tobacco.

(3) The completion of the study and practice of methods of teaching individuals with exceptional needs.

(e) The commission shall assess the records of out-of-state teachers who have been granted a five-year preliminary credential for purposes of determining any additional coursework that may be required as a condition for the issuance of a clear credential. The assessment shall determine the equivalency of out-of-state coursework in comparison to California coursework requirements, and, where applicable, shall specify additional coursework to be taken. In determining the equivalency of out-of-state coursework to California requirements, the commission shall do all of the following:

(1) Accept a master's degree or higher degree from an accredited postsecondary educational institution demonstrating completion of an educationally related and organized program involving at least 30 semester units of postbaccalaureate coursework from an accredited postsecondary educational institution for purposes of meeting the fifth year of study requirement.

(2) Upon direct application, grant a clear credential if the out-of-state teacher has met the requirements of paragraphs (1) to (3), inclusive, of subdivision (d).

(3) Notify the out-of-state teacher who has completed the fifth year equivalency requirement, but who has not met the requirements of paragraph (2) or (3) of subdivision (d), that upon the submission of verification that he or she has completed these requirements, he or she may submit an application to the commission for a clear credential.

(4) Notify out-of-state applicants who have not completed the fifth year of study requirement that they must obtain an evaluation of a postsecondary educational institution with an approved fifth year program. If there is a significant difference of opinion as to the content or units credited to out-of-state coursework, either the applicant or the postsecondary educational institution may solicit the opinion of the commission. Upon the completion of the coursework specified in the postsecondary educational institution's evaluation, the institution may recommend the applicant for a clear credential.

(f) If an applicant is unable to secure the recommendation of a postsecondary educational institution for the issuance of a clear credential, the applicant may submit a direct application to the commission documenting that he or she has completed all of the requirements for a clear credential. If the commission determines

that all of the requirements have been met, the commission shall grant the clear credential.

SEC. 2. Section 44253 of the Education Code is amended to read:

44253. (a) The commission may issue a preliminary multiple or single subject teaching credential, for a period not to exceed two years, to any applicant qualifying under Section 44227 pending completion of the requirements in subdivision (d), (e), (f), or (g).

(b) The commission may issue a preliminary designated subjects teaching credential, for a period not to exceed two years, pending completion of the requirement in subdivision (f).

(c) The commission may issue a preliminary special education specialist instruction credential, for a period not to exceed two years, to an out-of-state applicant qualifying under Section 44265 pending completion of the requirements in subdivisions (d) to (i), inclusive.

(d) A commission-approved subject matter preparation program or examination to verify subject matter competence.

(e) A course, or for multiple subject or special education specialist instruction credentials, a course or an examination, on the teaching of reading.

(f) A course or examination on the provisions and principles of the United States Constitution.

(g) A commission-approved program, course, or examination in the use of computers in the classroom, as set forth in Section 44259.

(h) A course in nonspecial education pedagogy.

(i) An instructional experience in nonspecial education.

SEC. 3. Section 44259 of the Education Code is amended to read:

44259. (a) Except as provided in subparagraphs (A) and (C) of paragraph (3) of subdivision (b), each program of professional preparation for multiple or single subject teaching credentials shall not include more than one year of, or the equivalent of one-fifth of a five-year program in, professional preparation.

(b) The minimum requirements for the preliminary multiple or single subject teaching credential, are all of the following:

(1) A baccalaureate degree or higher degree from a regionally accredited institution of postsecondary education. Except as provided in subdivision (c) of Section 44227, the baccalaureate degree shall not be in professional education. The commission shall encourage accredited institutions to offer undergraduate minors in education and special education to students who intend to become teachers.

(2) Passage of the state basic skills examination that is developed and administered by the commission pursuant to Section 44252.5.

(3) Satisfactory completion of a program of professional preparation that has been accredited by the committee on accreditation on the basis of standards of program quality and effectiveness that have been adopted by the commission. Subject to the availability of funds in the annual Budget Act for this purpose, and in accordance with the commission's assessment and performance

standards, each program shall include a teaching performance assessment as set forth in Section 44320.2 which is aligned with the California Standards for the Teaching Profession. The commission shall ensure that each candidate recommended for a credential or certificate has demonstrated satisfactory ability to assist students to meet or exceed state content and performance standards for pupils adopted pursuant to subdivision (a) of Section 60605. Programs that meet this requirement for professional preparation shall include any of the following:

(A) Integrated programs of subject matter preparation and professional preparation pursuant to subdivision (a) of Section 44259.1.

(B) Postbaccalaureate programs of professional preparation, pursuant to subdivision (b) of Section 44259.1.

(C) Internship programs of professional preparation, pursuant to Section 44321, Article 7.5 (commencing with Section 44325), Article 11 (commencing with Section 44380), and Article 3 (commencing with Section 44450) of Chapter 3.

(4) Study of alternative methods of developing English language skills, including the study of reading as described in subparagraphs (A) and (B), among all pupils, including those for whom English is a second language, in accordance with the commission's standards of program quality and effectiveness. The study of reading shall meet the following requirements:

(A) Commencing January 1, 1997, satisfactory completion of comprehensive reading instruction that is research-based and includes all of the following:

(i) The study of organized, systematic, explicit skills including phonemic awareness, direct, systematic, explicit phonics, and decoding skills.

(ii) A strong literature, language, and comprehension component with a balance of oral and written language.

(iii) Ongoing diagnostic techniques that inform teaching and assessment.

(iv) Early intervention techniques.

(v) Guided practice in a clinical setting.

(B) For the purposes of this section, "direct, systematic, explicit phonics" means phonemic awareness, spelling patterns, the direct instruction of sound/symbol codes and practice in connected text and the relationship of direct, systematic, explicit phonics to the components set forth in clauses (i) to (v), inclusive.

A program for the multiple subjects credential also shall include the study of integrated methods of teaching language arts.

(5) Completion of a subject matter program that has been approved by the commission on the basis of standards of program quality and effectiveness pursuant to Article 6 (commencing with Section 44310) or passage of a subject matter examination pursuant to Article 5 (commencing with Section 44280). The commission shall

ensure that subject matter standards and examinations are aligned with the state content and performance standards adopted for pupils pursuant to subdivision (a) of Section 60605.

(6) Demonstration of a knowledge of the principles and provisions of the Constitution of the United States pursuant to Section 44335.

(7) Commencing January 1, 2000, demonstration, in accordance with the commission's standards of program quality and effectiveness, of basic competency in the use of computers in the classroom as determined by one of the following:

(A) Successful completion of a commission-approved program or course.

(B) Successful passage of an assessment that is developed, approved, and administered by the commission.

(c) The minimum requirements for the professional clear multiple or single subject teaching credential shall include all of the following requirements:

(1) Possession of a valid preliminary teaching credential, as prescribed in subdivision (b), possession of a valid equivalent credential or certificate, or completion of equivalent requirements as determined by the commission. A candidate who has satisfied the requirements of subdivision (b) for a preliminary credential, including completion of an accredited internship program of professional preparation, shall be determined by the commission to have fulfilled the requirements of paragraph (2) for beginning teacher induction if the accredited internship program has fulfilled induction standards and been approved as set forth in this subdivision.

(2) Subject to the availability of funds in the annual Budget Act to provide statewide access to eligible beginning teachers, as defined in subdivision (d) of Section 44279.1, completion of a program of beginning teacher induction, including any of the following:

(A) A program of beginning teacher support and assessment approved by the commission and the Superintendent of Public Instruction pursuant to Section 44279.1, a provision of the Marian Bergeson Beginning Teacher Support and Assessment System.

(B) An alternative program of beginning teacher induction that is provided by one or more local education agencies and has been approved by the commission and the superintendent on the basis of initial review and periodic evaluations of the program in relation to appropriate standards of credential program quality and effectiveness that have been adopted by the commission, the superintendent, and the State Board of Education pursuant to this subdivision. The standards for alternative programs shall encourage innovation and experimentation in the continuous preparation and induction of beginning teachers. Any alternative program of beginning teacher induction that has met state standards pursuant to this subdivision may apply for state funding pursuant to Sections 44279.1 and 44279.2.

(C) An alternative program of beginning teacher induction that is sponsored by a regionally accredited college or university, in cooperation with one or more local school districts, that addresses the individual professional needs of beginning teachers and meets the commission's standards of induction. The commission shall ensure that preparation and induction programs that qualify candidates for professional credentials extend and refine each beginning teacher's professional skills in relation to the California Standards for the Teaching Profession and the standards of student performance adopted pursuant to Section 60605.

(3) Preparation, in accordance with commission standards, that addresses the following:

(A) Study of health education, including study of nutrition, cardiopulmonary resuscitation, and the physiological and sociological effects of abuse of alcohol, narcotics, and drugs and the use of tobacco. Training in cardiopulmonary resuscitation shall also meet the standards established by the American Heart Association or the American Red Cross.

(B) Study and field experience in methods of delivering appropriate educational services to students with exceptional needs in regular education programs.

(C) Study, in accordance with the commission's standards of program quality and effectiveness, of advanced computer-based technology, including the uses of technology in educational settings.

(4) The commission shall develop and implement standards of program quality that provide for the areas of study listed in subparagraphs (A) to (C), inclusive of paragraph (3), starting in professional preparation and continuing through induction.

(5) Completion of an approved fifth-year program after completion of a baccalaureate degree at a regionally accredited institution, except that the commission shall eliminate this requirement for any candidate who has completed an induction program that has been approved for the professional clear credential pursuant to paragraph (2).

(d) A credential that was issued prior to the effective date of this section shall remain in force as long as it is valid under the laws and regulations that were in effect on the date it was issued. The commission may not, by regulation, invalidate an otherwise valid credential unless it issues to the holder of the credential, in substitution, a new credential authorized by another provision in this chapter that is no more restrictive than the credential for which it was substituted with respect to the kind of service authorized and the grades, classes, or types of schools in which it authorizes service.

(e) A credential program that is approved by the commission may not deny an individual access to that program solely on the grounds that the individual obtained a teaching credential through completion of an internship program when that internship program has been accredited by the commission.

(f) Notwithstanding this section, persons who were performing teaching services as of January 1, 1999, pursuant to the language of this section that was in effect prior to that date, may continue to perform those services without complying with any requirements that may be added by the amendments adding this subdivision.

(g) Subparagraphs (A) and (B) of paragraph (4) of subdivision (b) do not apply to any person who, as of January 1, 1997, holds a multiple or single subject teaching credential, or to any person enrolled in a program of professional preparation for a multiple or single subject teaching credential as of January 1, 1997, who subsequently completes that program. It is the intent of the Legislature that the requirements of subparagraphs (A) and (B) of paragraph (4) of subdivision (b) be applied only to persons who enter a program of professional preparation on or after January 1, 1997.

(h) The commission shall grant teaching credentials based on the requirements for those credentials that were in effect on December 31, 1998, to candidates who were in the process of meeting those requirements for teaching credentials before the effective date of the commission's implementation of this section.

SEC. 4. Section 44275.3 of the Education Code is amended to read:

44275.3. Notwithstanding any other provision of law:

(a) (1) It is the intent of the Legislature that both of the following occur:

(A) That this section provide flexibility to enable school districts to recruit credentialed out-of-state elementary, secondary, and special education teachers to relocate to California.

(B) That any and all teachers hired in California pursuant to this section fully meet the requirements of the State of California.

(2) It is not the intent of the Legislature either to address the issue of interstate reciprocity of credentialing requirements or to dilute current California requirements for credentialed teachers.

(b) Any teacher from a state other than California may be employed by a school district pursuant to this section to provide instructional services if each of the following conditions are met:

(1) The teacher holds a valid credential that requires the teacher to meet requirements equivalent to the multiple or single subject teaching credential requirements in paragraphs (1) and (2) of subdivision (c) of Section 44227 or the special education credential requirements described in Section 44265.

(2) The credential from the state other than California is valid at the time the teacher commences to provide instructional services for the school district.

(3) The teacher is hired after the successful completion of a criminal background check conducted pursuant to Section 44332.6, by the governing board of the school district offering the teacher employment.

(c) The Commission on Teacher Credentialing shall grant a five-year preliminary multiple or single subject teaching credential or education specialist credential to a teacher meeting the requirements of subdivision (b) if the teacher has received an offer of employment from a California school district, county office of education, nonpublic, nonsectarian school or agency, or school operating under the direction of a California state agency.

(d) At or before the completion of one school year of teaching pursuant to this section, a teacher shall pass the state basic skills proficiency test, pursuant to Section 44252, administered by the Commission on Teacher Credentialing in order to be eligible to continue teaching pursuant to this section.

(e) At or before the completion of four school years of teaching pursuant to this section, a teacher shall, to the satisfaction of the Commission on Teacher Credentialing, meet the requirements for subject matter competence, for completion of a course, or for multiple subject credentials, a course or an examination, on the various methods of teaching reading, and for completion of a course or examination on the Constitution of the United States, within the meaning of paragraphs (3), (4), and (6), respectively, of subdivision (c) of Section 44227, in order to be eligible to continue teaching pursuant to this section. Additionally, to be eligible to continue teaching on an education specialist credential, the teacher shall also complete the requirements for nonspecial education pedagogy and a supervised field experience program in general education.

(f) At or before the completion of five school years of teaching pursuant to this section, a teacher shall meet the requirements for completion of the study of health education, for completion of study and field experience in methods of delivering appropriate educational services to pupils with exceptional needs in regular education programs, and for completion of the study of computer-based technology, within the meaning of paragraphs (1), (2), (3), and (4), respectively, of subdivision (c) of Section 44259. A teacher holding a specialist credential pursuant to this section shall complete a program for the Professional Level II credential accredited by the Committee on Accreditation, established pursuant to Section 44373, including the requirements specified in this subdivision and subdivision (e).

(g) If a teacher fails to meet any of the requirements of subdivisions (b), (c), (d), (e), and (f), the Commission on Teacher Credentialing shall inactivate a preliminary credential granted pursuant to this section until the requirement is met. The time requirements contained in subdivisions (e) and (f) shall not be stayed by the inactivation of a preliminary credential under this subdivision.

(h) The Commission on Teacher Credentialing shall issue a professional clear credential to a teacher who meets the requirements of subdivisions (b), (c), (d), (e), and (f) and submits

an application with appropriate fees and documentation of the completion of all requirements pursuant to this section.

SEC. 5. Section 44283.2 of the Education Code is amended to read:

44283.2. (a) Commencing on January 1, 2000, prior to the initial issuance of a specialist teaching credential in special education pursuant to Section 44265, except as provided in subdivision (b) a first time credential applicant who is not credentialed in any state shall be required to demonstrate that he or she passed the reading instruction competence assessment developed pursuant to Section 44283.

(b) This section shall not apply to an applicant for an Early Childhood Special Education Certificate or Early Childhood Special Education Credential, which authorizes the holder to provide educational services to children from birth through prekindergarten who are eligible for early intervention special education and related services.

SEC. 6. Section 44305 of the Education Code is amended to read:

44305. (a) As resources are available to school districts to provide services to any preintern pursuant to this article, the commission may issue a preintern 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 preinterns pursuing multiple subject emergency permits, the commission may issue a preintern teaching certificate instead of an emergency single subject permit or an emergency education specialist instruction 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 preintern 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 preintern teacher who passes the subject matter examination in the first or second year of his or her preintern teaching shall enroll in a district or university teaching internship or other approved university teaching credential program. A preintern teaching certificate may be renewed for a third year if the employing school district, the cooperating college or university, and the preintern support the application for renewal.

(c) The minimum requirements for the preintern 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, for the multiple subject or single subject preintern teaching certificate.

(4) The number of units in education or the number of years of experience in special education, as set by the commission, for the education specialist instruction preintern teaching certificate.

(d) The commission shall establish criteria for the approval of preintern 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 preinterns.

(3) Cost effectiveness, including the number of preinterns 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 preintern teachers.

(6) Preintern 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 preinternship.

(7) The role of personnel, including experienced teachers with permanent status, in the delivery of preintern preparation and support.

(8) That no later than the second year of employment the program for each preintern 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 preintern 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 preintern 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 preintern employed by the school district.

SEC. 7. Section 44831 of the Education Code is amended to read:

44831. Governing boards of school districts shall employ persons in public school service requiring certification qualifications as provided in this code, except that the governing board or a county office of education may contract with or employ an individual who holds a license issued by the Speech-Language Pathology and Audiology Board and has earned a masters degree in communication disorders to provide speech and language services if that individual meets the requirements of Sections 44332.6 and 44830 before employment or execution of the contract.

SEC. 8. There is hereby appropriated the sum of seven hundred thousand dollars ($700,000) from the Test Development and Administration Account of the Teacher Credentials Fund to the Commission on Teacher Credentialing for the purpose of providing the Commission on Teacher Credentialing with the funds needed to complete statutorily mandated test-validation studies of the California Basic Educational Skills Test (CBEST) and the Multiple Subject Assessment for Teachers (MSAT).

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the Commission on Teacher Credentialing with the expenditure authority to complete, on a timely basis, statutorily mandated test-validation studies to ensure that mandated credential examinations are appropriately verifying the knowledge, skills, and abilities of teacher credential candidates, and to make other timely changes to statutory requirements related to teacher credentialing, it is necessary that this act go into effect immediately.

CHAPTER 624

An act to add Sections 29010.3, 100130.5, and 103240.5 to the Public Utilities relating to transportation.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 29010.3 is added to the Public Utilities Code, to read:

29010.3. (a) The district may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without the district necessary for, incidental to, or convenient for, transit-oriented joint development projects that meet the definition and requirement set forth in subdivision (b).

(b) (1) For purposes of this section, a transit-oriented joint development project is a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed transit facilities and is located 1/4 mile or less from the external boundaries of that facility.

(2) Any transit-oriented joint development project created under this section shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

(c) Notwithstanding Section 29036 or any other provision of law, the authority granted under this section is subject to the land use and zoning regulations of the city, county, or city and county jurisdiction in which the transit-oriented joint development is located, in accordance with the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code), relating to zoning.

SEC. 2. Section 100130.5 is added to the Public Utilities Code, to read:

100130.5. (a) The district may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without the district necessary for, incidental to, or convenient for, transit-oriented joint development projects that meet the definition and requirement set forth in subdivision (b).

(b) (1) For purposes of this section, a transit-oriented joint development project is a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed transit facilities and is located 1/4 mile or less from the external boundaries of that facility.

(2) Any transit-oriented joint development project created under this section shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

(c) Notwithstanding Sections 53090 and 53091 of the Government Code or any other provision of law, the authority granted under this section is subject to the land use and zoning regulations of the city, county, or city and county jurisdiction in which the transit-oriented joint development is located, in accordance with the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code), relating to zoning.

SEC. 3. Section 103240.5 is added to the Public Utilities Code, to read:

103240.5. (a) The district may take by gift, or take or convey by grant, purchase, devise, or lease, and hold and enjoy, real and personal property of every kind within or without the district necessary for, incidental to, or convenient for, transit-oriented joint development projects that meet the definition and requirement set forth in subdivision (b).

(b) (1) For purposes of this section, a transit-oriented joint development project is a commercial, residential, or mixed-use development that is undertaken in connection with existing, planned, or proposed intermodal transit facilities and is located 1/4 mile or less from the external boundaries of that facility.

(2) Any transit-oriented joint development project created under this section shall comply with the land use and zoning regulations of the city, county, or city and county in which the project is located.

(c) Notwithstanding Section 103265 or any other provision of law, the authority granted under this section is subject to the land use and zoning regulations of the city, county, or city and county jurisdiction in which the transit-oriented joint development is located, in accordance with the Planning and Zoning Law (Title 7 (commencing with Section 65000) of the Government Code), relating to zoning.

(d) The authority granted under this section extends to any joint powers agency of which the district is a member and for which the district serves as the managing agency.

CHAPTER 625

An act to amend Section 8169.5 of the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8169.5 of the Government Code is amended to read:

8169.5. (a) In furtherance of the Capitol Area Plan, the objectives of Resolution Chapter 131 of the Statutes of 1991, and the legislative findings and declarations contained in Chapter 193 of the Statutes of 1996, relative to the findings by the Urban Land Institute, the director may purchase, exchange, or otherwise acquire real property and construct facilities, including any improvements, betterments, and related facilities, within the jurisdiction of the

Capitol Area Plan in the City of Sacramento pursuant to this section. The total authorized scope of the project shall consist of up to approximately 1,470,200 gross square feet of office space and approximately 742,625 gross square feet of parking structures for use by the State Department of Education, the State Department of Health Services, and the Department of General Services as anchor tenants on blocks 171, 172, 173, 174, and 225, along with related additional parking on block 224, within the Capitol area. The acquisition and construction authorized pursuant to this section may not cause the displacement of any state or legislative employee parking spaces in the blocks specified in this subdivision unless the Department of General Services makes available existing state-owned parking spaces, acquires parking spaces, or constructs replacement parking that results in the affected employees' parking spaces being located at a reasonable distance from their place of employment.

(b) Subject to paragraphs (2) and (3) of subdivision (c), the department may contract for the lease, lease-purchase, lease with an option to purchase, acquisition, design, design-build, construction, construction management, and other services related to the design and construction of the office and parking facilities authorized to be acquired pursuant to subdivision (a).

(c) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 to finance all costs associated with acquisition, design, and construction of office and parking facilities for the purposes of this section. The State Public Works Board and the department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. In the event the bonds authorized by the project are not sold, the State Department of Education, the State Department of Health Services, and the Department of General Services, as determined by the Department of Finance, shall commit a sufficient amount of their support appropriations to repay any loans made for the project from the Pooled Money Investment Account. It is the intent of the Legislature that this commitment shall be included in future Budget Acts until all outstanding loans from the Pooled Money Investment Account are repaid either through the proceeds from the sale of bonds or from an appropriation.

(2) (A) If the department proposes to acquire the facilities on a design-build basis, prior to the department entering into an agreement pursuant to subdivision (b) to design and build the facilities on blocks 171, 172, 173, 174, and 225, as specified in subdivision (a), the department shall submit to the Legislature a copy of all documents that shall be the basis upon which bids will be solicited and awarded to design and build the facilities. The documents shall include the following:

(i) The request for qualifications.

(ii) Site development guidelines.

(iii) Architectural and all system design requirements for the facilities.

(iv) Notwithstanding any other provision of law, the recommended specific criteria and process by which the contractor shall be selected.

(v) The performance criteria and standards for the architecture and all components and systems of the facilities.

(B) The information in the documents shall be provided in at least as much detail as was prepared for the San Francisco Civic Center Complex project and shall cover the quality of materials, equipment, and workmanship to be used in the facilities. These documents shall also include a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(C) If the department proceeds to acquire the facilities on a design-build basis, in addition to any other requirements imposed pursuant to this section, notwithstanding Section 7550.5, the department shall provide the Legislature, beginning on July 1, 1999, and every three months thereafter until the facilities are completed, with a status report that includes information regarding any benefits that the state may have realized from use of the design-build approach, any problems that have been encountered from the use of a design-build approach, and lessons learned that may be applied to a future project. The department shall issue a final report when the facilities are completed.

(D) If the department proposes to contract for construction separate from design, the department shall, prior to commencing work on working drawings for the facilities on blocks 171, 172, 173, 174, and 225, submit to the Legislature a copy of the preliminary plans for the facilities and a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(E) Regardless of how the department proposes to acquire the facilities, the department also shall submit all of the following information, which may be included in the bid documents:

(i) A final estimated cost for design, construction, and other costs.

(ii) How the department would manage the contracts entered into for this project to ensure compliance with contract requirements and to ensure that the state receives the highest level of quality workmanship and materials for the funds spent on the project.

(3) Except for the reports specified in subparagraph (C) of paragraph (2), the department shall submit to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6) on or before December 1, 1998. Except for those contracts and agreements necessary to prepare the information required by paragraphs (2) and (6), the department shall not solicit bids to enter into any agreement to design and build or otherwise acquire the facilities or commence work on working drawings on block 171, 172,

173, 174, or 225 sooner than the later of April 1, 1999, or 120 days after the department submits to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6). The Legislative Analyst shall evaluate the information submitted to the Legislature and shall prepare a report to the Joint Committee on Rules within 60 days of receiving the documents submitted to the Legislature. It is the intent of the Legislature that the Joint Committee on Rules meet prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings for the purposes of discussing the report from the Legislative Analyst and adopting a report with any recommendations to the department on changes to the site design criteria, performance criteria, and specifications and specific criteria for determining the winning bidder. If the Joint Committee on Rules adopts a report prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings, the department may solicit the bids or commence the work when the report is adopted by the Joint Committee on Rules. The Senate Committee on Rules and the Speaker of the Assembly may designate members of their respective houses to monitor the progress of the preparation of the documents to be submitted pursuant to paragraph (2). The department shall prepare periodic progress reports and meet with the designated members or their representatives, as necessary, while preparing the documents.

(4) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold may equal, but shall not exceed, the cost of planning, preliminary plans, working drawings, construction, construction management and supervision, other costs relating to the design and construction of the facilities, and any additional sums necessary to pay interim and permanent financing costs. The additional amount may include interest and a reasonable required reserve fund.

(5) Authorized costs of the facilities for preliminary plans, working drawings, construction, and other costs shall not exceed three hundred ninety-two million dollars ($392,000,000). Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized under this paragraph by up to 10 percent of the amount authorized.

(6) The net present value of the cost to acquire and operate the facilities authorized by subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of comparable office space over the same time period. The department shall perform this analysis and shall obtain interest rates, discount rates, and Consumer Price Index figures from the Treasurer and submit its analysis with the documents submitted pursuant to paragraph (2) of subdivision (c). For purposes of this analysis, the department shall compare the cost of acquiring and operating the proposed facilities with the avoided cost of leasing and operating an

equivalent amount of comparable office space that will no longer need to be leased because either (A) agencies will no longer occupy currently leased facilities when they occupy the proposed facilities, or (B) agencies will no longer occupy currently leased facilities when they occupy state-owned space being vacated by state agencies occupying the proposed facilities. The analysis shall also include the cost of any unique improvement associated with the moving of an agency into any state-owned space that would be vacated by agencies moving into the proposed facilities. However, these costs shall not include the cost of renovating or modernizing vacated state-owned space that is necessary to accommodate state agencies in general purpose office space. This paragraph shall not be construed as authorizing any renovation of state-owned space.

(d) The director may execute and deliver a contract with the State Public Works Board for the lease of the facilities described in this section that are financed with the proceeds of the board's bonds, notes, or bond anticipation notes issued in accordance with this section.

SEC. 2. Expenses for the project authorized pursuant to Section 8169.5 of the Government Code may include payments for actual moving and related expenses, including obtaining new facilities, for the Francis House in Sacramento, an organization whose primary activities concern counseling and assisting low-income residents of the midtown region in the areas of employment and housing, in an amount that may not exceed one hundred twenty thousand dollars ($120,000). The Department of General Services shall allocate these funds, upon application by the Francis House, using criteria adopted by the department. These criteria shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The payments authorized by this section shall not create any rights to relocation payments pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

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

In order to ensure orderly and responsible acquisition of state facilities within the Capitol Area Plan, it is necessary that this act take effect immediately.

CHAPTER 626

An act to add Chapter 4.5 (commencing with Section 1701) to Part 6 of Division 2 of the Labor Code, relating to talent services.

[Approved by Governor October 5, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. Chapter 4.5 (commencing with Section 1701) is added to Part 6 of Division 2 of the Labor Code, to read:

CHAPTER 4.5. ADVANCE-FEE TALENT SERVICES

Article 1. Definitions

1701. For purposes of this chapter, the following terms have the following meanings:

(a) (1) "Advance fee" means any fee due from or paid by an artist prior to the artist obtaining actual employment as an artist or prior to the artist receiving actual earnings as an artist or that exceeds the actual earnings received by the artist as an artist.

(2) "Advance fee" does not include reimbursements for out-of-pocket costs actually incurred by the payee on behalf of the artist for services rendered or goods provided to the artist by an independent third party if all of the following conditions are met:

(A) The payee has no direct or indirect financial interest in the third party.

(B) The payee does not accept any referral fee or other consideration for referring the artist.

(C) The services rendered or goods provided for the out-of-pocket costs are not represented to be, and are not, a condition for the payee to register or list the artist with the payee.

(D) The payee maintains adequate records to establish that the amount to be reimbursed was actually advanced or owed to a third party and that the third party is not a person in which the payee has a direct or indirect financial interest or from which the payee receives any consideration for referring the artist.

(E) The burden of producing evidence to support a defense based upon an exemption or an exception provided in this paragraph is upon the person claiming it.

(b) "Advance-fee talent service" means a person who charges, attempts to charge, or receives an advance fee from an artist for one or more of the following:

(1) Procuring, offering, promising, or attempting to procure employment or engagements for the artist.

(2) Managing or directing the development or advancement of the artist's career as an artist.

(3) Career counseling, career consulting, vocational guidance, aptitude testing, evaluation, or planning, in each case relating to the preparation of the artist for employment as an artist.

(4) Registering or listing an artist for employment in the entertainment industry or as a customer of the advance-fee talent service.

(5) Creating or providing photographs, filmstrips, videotapes, audition tapes, demonstration reels, or other reproductions of the artist, or casting or talent brochures or other promotional materials for the artist.

(6) Creating or providing costumes for the artist.

(7) Providing lessons, coaching, or similar training for the artist.

(8) Providing auditions for the artist.

(9) Any activity of a like nature.

(c) "Artist" or "artists" means persons who seek to become or are actors or actresses rendering services on the legitimate stage or in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, models, extras, and other artists or persons rendering professional services in motion picture, theatrical, radio, television, and other entertainment enterprises.

(d) "Fee" means any money or other valuable consideration paid or promised to be paid by or for an artist for services rendered or to be rendered by any person conducting the business of an advance-fee talent service.

(e) "Person" means any individual, company, society, firm, partnership, association, corporation, limited liability company, trust, or other organization.

1701.1. This chapter does not apply to any person exempt from regulation under the Employment Agency, Employment Counseling, and Job Listing Services Act (Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code) pursuant to paragraph (2) of subdivision (b) of Section 1812.501 or Section 1812.502 of the Civil Code.

1701.2. Compliance with this chapter does not satisfy or is not a substitute for the requirements mandated by any other applicable law, including the obligation to obtain a license under the Talent Agencies Act (Chapter 4 (commencing with Section 1700)), prior to procuring, offering, promising, or attempting to procure employment or engagements for artists.

Article 2. Contract Agreement Provisions and Recordkeeping

1701.4. (a) Every contract or agreement between an artist and an advance-fee talent service for an advance fee shall be in writing. The contract shall contain all of the following provisions and the additional provisions, if any, as may be set forth in regulations adopted by the Labor Commissioner from time to time:

(1) The name, address, and telephone number of the advance-fee talent service, the artist to whom the services are to be provided, and

the representative executing the contract on behalf of the advance-fee talent service.

(2) A description of the services to be performed, a statement when those services are to be provided, the duration of the contract, and refund provisions if the described services are not provided according to the contract.

(3) The amount of any fees to be charged to or collected from the artist receiving the services or any other person and the date or dates when those fees are required to be paid.

(4) The following statements, in type no smaller than 10-point boldface type and in close proximity to the artist's signature, shall be included in the contract:

RIGHT TO REFUND

"If you pay all or any portion of a fee and you fail to receive the services promised or that you were led to believe would be performed, then (name of advance-fee talent service) shall, upon your request, return the amount paid by you within 48 hours of your request for a refund. If the refund is not made within 48 hours, then (name of advance-fee talent service) shall, in addition, pay you a sum equal to the amount of the refund."

YOUR RIGHT TO CANCEL

(enter date of transaction)

You may cancel this contract for advance–fee talent services, without any penalty or obligation, if notice of cancellation is given, in writing, within 10 business days from the above date.

To cancel this contract, mail or deliver a signed and dated copy of the following cancellation notice or any other written notice of cancellation, or send a telegram containing a notice of cancellation to (name of advance–fee talent service) at (address of its place of business), NOT LATER THAN MIDNIGHT OF (date).

ONLY A TALENT AGENT LICENSED PURSUANT TO SECTION 1700.5 OF THE LABOR CODE MAY ENGAGE IN THE OCCUPATION OF PROCURING, OFFERING, PROMISING, OR ATTEMPTING TO PROCURE EMPLOYMENT OR ENGAGEMENTS FOR AN ARTIST.

CANCELLATION NOTICE

I hereby cancel this contract.

Dated: _____

_____

Artist Signature.

(b) All contracts subject to this section shall be dated and shall be made and numbered consecutively in triplicate, the original and each copy to be signed by the artist and the person acting for the advance-fee talent service. The advance-fee talent service shall provide an original and one copy of the contract to the artist at the

same time the artist signs the contract and before the artist or any person acting on his or her behalf becomes obligated to pay or pays any fee. The additional copy shall be kept on file at the advance-fee talent service's place of business.

(c) The full agreement between the parties shall be contained in a single document containing the elements set forth in this section.

(d) Any contract subject to this section that does not comply with subdivisions (a) to (c), inclusive, of this section shall be voidable at the election of the artist and, in that case, shall not be enforceable by the advance-fee talent service.

(e) Refunds shall be made as follows:

(1) In the event that an artist does not receive the services promised or that the artist was led to believe would be performed, the advance-fee talent service shall, upon demand therefor, repay the artist the fees collected for those services. If repayment is not made within 48 hours after the artist's demand, the advance-fee talent service shall pay the artist an additional sum equal to the amount of the fee.

(2) In the event that an artist cancels the contract, the advance-fee talent service shall refund in full any advance fees demanded by the artist in writing within 10 business days after delivery of the demand to the advance-fee talent service, provided that the artist furnishes a notice of cancellation to the advance-fee talent service in the manner specified in paragraph (4) of subdivision (a). Unless repayment is made within 10 business days after the demand, the advance-fee talent service shall pay the artist an additional sum equal to the amount of the fee.

1701.5. (a) Every person engaging in the business of an advance-fee talent service shall keep and maintain records of the person's advance-fee talent service business. The records shall contain all of the following:

(1) The name and address of each artist employing that person as an advance-fee talent service.

(2) The amount of the advance fees paid by or for the artist during the term of the contract with the advance-fee talent service.

(3) A record of all advertisements by the advance-fee talent service, including the date and the publication in which the advertisement appeared, which shall be maintained for a period of three years following publication.

(4) Records described in subparagraph (D) of paragraph (2) of subdivision (a) of Section 1701.

(5) Any other information that the Labor Commissioner requires.

(b) All books, records, and other papers kept pursuant to this chapter by an advance-fee talent service shall be open at all reasonable hours to inspection by the Labor Commissioner and his or her representatives and to the representative of the Attorney General, any district attorney, or any city attorney. Every advance-fee talent service shall furnish to the Labor Commissioner

and to the representative of the Attorney General, any district attorney, or any city attorney, upon request, a true copy of those books, records, and papers, or any portion thereof, and shall make reports as the Labor Commissioner requires.

(c) Every advance-fee talent service shall post in a conspicuous place in the office of the advance-fee talent service a printed copy of this chapter and of other statutes as may be specified by regulation of the Labor Commissioner. Those copies shall also contain the name and address of the officer charged with the enforcement of this chapter. The Labor Commissioner shall furnish to the advance-fee talent service printed copies of any statute required to be posted under this section.

Article 3. Written Disclosure

1701.8. Prior to requesting any advance fee, an advance-fee talent service shall provide an artist with written disclosure of all of the following:

(a) The name, address, and telephone number of the advance-fee talent service, and evidence of compliance with any applicable bonding requirements, including the bond number, if any.

(b) A copy of the advance-fee talent service fee schedule and payment terms.

Article 4. Bond Requirements and Fees

1701.10. (a) Prior to engaging in the business or acting in the capacity of an advance-fee talent service, a person shall file with the Labor Commissioner a bond in the amount of ten thousand dollars ($10,000) or a deposit in lieu of the bond pursuant to Section 995.710 of the Code of Civil Procedure. The bond shall be executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to ten thousand dollars ($10,000). The bond may be terminated pursuant to Section 995.440 of, or Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the advance-fee talent service while acting within the scope of that employment or agency.

(c) The Labor Commissioner shall charge and collect a filing fee to cover the cost of filing the bond or deposit.

(d) The Labor Commissioner shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits.

(e) (1) Whenever a deposit is made in lieu of the bond otherwise required by this section, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Labor Commissioner of a money judgment entered by a court, together with evidence that the claimant is a person described in subdivision (b).

(2) When a claimant has established the claim with the Labor Commissioner, the Labor Commissioner shall review and approve the claim and enter the date of the approval thereon. The claim shall be designated an approved claim.

(3) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Labor Commissioner. Subsequent claims that are approved by the Labor Commissioner within the same 240-day period shall similarly not be paid until the expiration of that 240-day period. Upon the expiration of the 240-day period, the Labor Commissioner shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case every approved claim shall be paid a pro rata share of the deposit.

(4) Whenever the Labor Commissioner approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which paragraph (3) applies with respect to any amount remaining in the deposit.

(5) After a deposit is exhausted, no further claims shall be paid by the Labor Commissioner. Claimants who have had claims paid in full or in part pursuant to paragraph (3) or (4) shall not be required to return funds received from the deposit for the benefit of other claimants.

(6) Whenever a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the assignor of the deposit, other than as to an amount as no longer needed or required for the purposes of this chapter and that would otherwise be returned to the assignor of the deposit by the Labor Commissioner.

(7) The Labor Commissioner shall return a deposit two years from the date it receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business or act in the capacity of an advance-fee talent service or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice shall include all of the following:

(A) The name, address, and telephone number of the assignor.

(B) The name, address, and telephone number of the bank at which the deposit is located.

(C) The account number of the deposit.

(D) A statement that the assignor is ceasing to engage in the business or act in the capacity of an advance-fee talent service or has filed a bond with the Labor Commissioner. The Labor Commissioner shall forward an acknowledgement of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and the anticipated date of release of the deposit, provided there are then no outstanding claims against the deposit.

(8) A municipal or superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the court that there are no outstanding claims against the deposit, or order the Labor Commissioner to retain the deposit for a specified period beyond the two years to resolve outstanding claims against the deposit.

(9) This subdivision applies to all deposits retained by the Labor Commissioner. The Labor Commissioner shall notify each assignor of a deposit it retains and of the applicability of this section.

(10) Compliance with Sections 1700.15 and 1700.16 of this code or Section 1812.503, 1812.510, or 1812.515 of the Civil Code shall satisfy the requirements of this section.

Article 5. Prohibited Acts

1701.12. An advance-fee talent service, or its agent or employee, may not do any of the following:

(a) Make, or cause to be made, any false, misleading, or deceptive advertisement or representation concerning the services the artist will receive or the costs the artist will incur.

(b) Publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement.

(c) Give an artist any false information or make any false promise or misrepresentation concerning any engagement or employment, or make any false or misleading verbal or written promise or guarantee of any job or employment to an artist.

(d) Make any false promise or representation, by choice of name or otherwise, that the advance-fee talent service is a talent agency or will procure or attempt to procure employment or engagements for the artist as an artist.

(e) Charge or attempt to charge, directly or indirectly, an artist for registering or listing the artist for employment in the entertainment industry or as a customer of the advance-fee talent service.

(f) Charge or attempt to charge, directly or indirectly, an artist for creating or providing photographs, filmstrips, videotapes, audition tapes, demonstration reels, or other reproductions of the artist, casting or talent brochures, or other promotional materials for the artist.

(g) Charge or attempt to charge, directly or indirectly, an artist for creating or providing costumes for the artist.

(h) Charge or attempt to charge, directly or indirectly, an artist for providing lessons, coaching, or similar training for the artist.

(i) Charge or attempt to charge, directly or indirectly, an artist for providing auditions for the artist.

(j) Refer an artist to any person who charges the artist a fee for the services described in subdivisions (e) to (i), inclusive, in which the advance-fee talent service has a direct or indirect financial interest.

(k) Accept any compensation for referring an artist to any person charging the artist a fee for the services described in subdivisions (e) to (i), inclusive.

Article 6. Remedies

1701.13. A person who willfully violates any provision of this chapter is guilty of a misdemeanor. Each violation is punishable by imprisonment in the county jail for not more than one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment. However, payment of restitution to an artist shall take precedence over the payment of a fine.

1701.15. The Attorney General, any district attorney, or any city attorney may institute an action for a violation of this chapter, including, but not limited to, an action to restrain and enjoin a violation.

1701.16. A person who is injured by any violation of this chapter or by the breach of a contract subject to this chapter may bring an action for recovery of damages or to restrain and enjoin a violation, or both. The amount awarded for damages for a violation of this chapter may be up to three times the damages actually incurred, but not less than the amount paid by the artist to the advance-fee talent service. When an advance-fee talent service refuses or is unwilling to pay damages awarded by a judgment that has become final, the judgment may be satisfied from the bond or deposit maintained by the Labor Commissioner. If the plaintiff prevails in an action under this chapter, the plaintiff shall be awarded reasonable attorney's fees and costs. If the court determines, by clear and convincing evidence, that the breach of contract or violation of this chapter was willful, the court, in its discretion, may award punitive damages in addition to any other amounts.

1701.17. The provisions of this chapter are not exclusive and do not relieve any person subject to this chapter from the duty to comply with all other laws.

1701.18. The remedies provided in this chapter are not exclusive and shall be in addition to any other remedies or procedures provided in any other law.

1701.19. Any waiver by the artist of the provisions of this chapter is deemed contrary to public policy and void and unenforceable. Any

attempt by an advance-fee talent service to have an artist waive his or her rights under this chapter is a violation of this chapter.

1701.20. If any provision of this chapter or the application thereof to any person or circumstances is held unconstitutional, the remainder of the chapter and the application of that provision to other persons and circumstances shall not be affected thereby.

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.

CHAPTER 627

An act to add and repeal Section 12798.1 of the Food and Agricultural Code, relating to pest control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 12798.1 is added to the Food and Agricultural Code, to read:

12798.1. (a) In addition to the program described in Section 12798, the sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated each year for each of the following fiscal years, 1999–2000, 2000–01, and 2001–02, from the General Fund to the Secretary of Food and Agriculture for the purpose of funding, on a competitive basis, Pierce Disease research. The disbursement of these funds shall be exempt from the requirements of Sections 12798 and 12798.6.

(b) The appropriation for each year pursuant to subdivision (a) shall become operative only upon an annual commitment during that year of at least two hundred fifty thousand dollars ($250,000) in private contributions from the California viticulture and enology industry.

(1) The secretary shall appoint an advisory task force consisting of scientific experts, including, but not limited to, university researchers and agricultural representatives, for the purpose of advising the secretary on the control and management of Pierce Disease. The task force, in consultation and cooperation with the American Vineyard

Foundation, shall make recommendations to the secretary on projects to be conducted in a competitive grant program for Pierce Disease research. The program is open to all California public institutions with research capabilities to address the needs of the California viticulture and enology industry.

(2) Members of the advisory task force, or alternate members when acting as members, may be reimbursed, upon request, for necessary expenses incurred by them in the performance of their duties.

(c) This section shall remain in effect until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

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

In order to eradicate new vectors that spread Pierce Disease at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 628

An act to add Section 188.15 to the Streets and Highways Code, relating to transportation.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 188.15 is added to the Streets and Highways Code, to read:

188.15. (a) Except as authorized under subdivision (b), toll funds used as a credit toward the nonfederal share of any federal-aid highway project, as authorized under Section 120(j) of Title 23 of the United States Code, or private entity expenditures used for that purpose, as authorized under Section 1217(i) of the Transportation Equity Act for the 21st Century (P.L. 105-178), may not be used as a credit for any project that is not within the county or counties in which the toll facility is located.

(b) The toll funds and private expenditures described in subdivision (a) may be used as a credit toward a project located outside the county or counties in which the toll facility is located if the department determines that there is no project in the current state transportation improvement program cycle within that county or counties for which the credit may be used.

(c) The department shall do both of the following:

(1) Obtain specific project proposals for use of the credit described in subdivision (a) from the regional transportation planning agencies and county transportation commissions of the county or counties in which the toll facility is located.

(2) Obtain contingency project proposals for use of the credit outside the county or counties in which the toll facility is located, in preparation for the occurrence of the condition described in subdivision (b).

(d) The county share allocations, as computed under Section 188 or 188.8, may not be increased or reduced as a consequence of any toll revenues or private agency expenditures that are utilized under this section as a credit toward the nonfederal share of any federally funded project.

CHAPTER 629

An act to add Section 25142.5 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25142.5 is added to the Health and Safety Code, to read:

25142.5. The department shall develop and implement a comprehensive training, education, and enforcement program for generators, transporters, and facility operators, for personnel conducting inspections for the departments, and for certified unified program agencies. The program shall be designed to increase awareness of the requirements governing the determination of whether a waste is hazardous, including, but not limited to, the requirements governing the use of the generator's knowledge of a waste to determine if the waste is hazardous, and to enhance the level of enforcement of those requirements. In implementing this program, the department shall give priority to training, education, and enforcement activities relating to the classification of the particular waste streams that the department determines are the most susceptible to misclassification, including, but not limited to, oily water and contaminated soil.

CHAPTER 630

An act to add Sections 19995.5 and 20677.1 to the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code entered into by the state employer and recognized employee organizations.

SEC. 2. The provisions of the following memoranda of understanding, prepared pursuant to Section 3517.5 of the Government Code, and entered into by the state employer and the following employee organizations, and that require the expenditure of funds or legislative action to permit their implementation, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1 (professional administrative, financial, and staff services)-- California State Employees Association.

(b) Unit 3 (education and library)-- California State Employees Association.

(c) Unit 4 (office and allied)-- California State Employees Association.

(d) Unit 11 (engineering and scientific technician)-- California State Employees Association.

SEC. 3. Provisions of any memorandum of understanding approved by any section of this act that are scheduled to take effect on or after July 1, 1999, and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 19995.5 is added to the Government Code, to read:

19995.5. (a) There is hereby created in the State Treasury, the State Employee Scholarship Fund to which funds shall be allocated from the amount negotiated in memoranda of understanding

between the state and recognized employee organizations, as defined in Section 3513, and appropriated by the Legislature for the 2000-01 fiscal year.

(b) The fund shall be used to establish a program for career advancement to assist eligible state employees to participate in educational programs that will enhance the personal growth and career development of employees in state government.

(c) The fund shall be administered by the Department of Personnel Administration. The amounts to be allocated and expended from funds available for compensation shall be determined by the department.

(d) Notwithstanding Section 13340, moneys in the fund shall be available for expenditure without regard to fiscal years through June 30, 2001. As of June 30, 2001, the fund shall cease to exist unless the existence of the fund is extended by statute and that statute is enacted prior to June 30, 2001.

SEC. 6. Section 20677.1 is added to the Government Code, to read:

20677.1. Notwithstanding Section 20677, the normal rate of contribution for state miscellaneous and state industrial members in State Bargaining Units 4 and 15, for the period between January 1, 2000, and August 31, 2000, shall be determined pursuant to provisions of a memorandum of understanding reached pursuant to Section 3517.5.

SEC. 7. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund for transfer to the State Employee Scholarship Fund to provide for the establishment and administration of the state employee scholarship program. Any additional funds for subsequent fiscal years shall be transferred from the amount appropriated in the annual Budget Act for employee compensation.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1999–2000 fiscal year and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 631

An act to amend Sections 651, 704, and 2083 of, and to add Sections 2259.7 and 2442 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor October 5, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim, for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(b) A false, fraudulent, misleading, or deceptive statement or claim includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) Is intended or is likely to create false or unjustified expectations of favorable results.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other

communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields. For the purposes of this section, the statement of a practitioner licensed under Chapter 4 (commencing with Section 1600) who limits his or her practice to a specific field or fields, shall only include a statement that he or she is certified or is eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board. A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education

approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician or surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education

approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) of this section or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce 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.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by business or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine

limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 1.5. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (1) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (2) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields. For the purposes of this section, the statement of a practitioner licensed under Chapter 4 (commencing with Section 1600) who limits his or her practice to a specific field or fields, shall only include a statement that he or she is certified or is eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board. A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician or surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent

requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) of this section or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce 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.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by business or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from

a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 2. Section 704 of the Business and Professions Code is amended to read:

704. In order for the holder of an inactive license or certificate issued pursuant to this article to restore his or her license or certificate to an active status, the holder of an inactive license or certificate shall comply with all the following:

(a) Pay the renewal fee; provided, that the renewal fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation which provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

(b) If the board requires completion of continuing education for renewers of an active license or certificate, complete continuing education equivalent to that required for a single license renewal period.

SEC. 3. Section 2083 of the Business and Professions Code is amended to read:

2083. (a) Except as provided in subdivision (b), each application for a certificate shall be accompanied by the fee required by this chapter and shall be filed with the Division of Licensing.

(b) The fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license renewal is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation that provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

SEC. 4. Section 2259.7 is added to the Business and Professions Code, to read:

2259.7. The Medical Board of California shall adopt extraction and postoperative care standards in regard to body liposuction procedures performed by a physician and surgeon outside of a general acute care hospital, as defined in Section 1250 of the Health and Safety Code. In adopting those regulations, the Medical Board of California shall take into account the most current clinical and scientific information available. A violation of those extraction and postoperative care standards constitutes unprofessional conduct.

SEC. 5. Section 2442 is added to the Business and Professions Code, to read:

2442. The renewal fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license renewal is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation which provides medical services to indigent patients in medically underserved or critical-need population areas of the state.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 651 of the Business and Professions Code proposed by both this bill and SB 836. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 651 of the Business and Professions Code, and (3) this bill is enacted after SB 836, in which case Section 1 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.

CHAPTER 632

An act to add Section 24410.5 to the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 24410.5 is added to the Education Code, to read:

24410.5. (a) Notwithstanding any provision of this part, including, but not limited to, subdivision (e) of Section 22664, the annual allowance payable on the effective date of this section to a retired member, an option beneficiary, or a surviving spouse receiving an allowance pursuant to either Section 23805 or 23855 shall not be less than the amount identified in the following schedule for the number of years of the member's credited service under the Defined Benefit Program at the time of the member's retirement, disability, or death, excluding service credited pursuant to Sections 22714, 22715, 22717 and 22826, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415, as those sections read on December 31, 1999, excluding annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions, and excluding those provided pursuant to Section 24410.7:

20 years of credited service	$15,000
21 years of credited service	$15,500
22 years of credited service	$16,000
23 years of credited service	$16,500
24 years of credited service	$17,000
25 years of credited service	$17,500
26 years of credited service	$18,000
27 years of credited service	$18,500
28 years of credited service	$19,000
29 years of credited service	$19,500
30 years or more of credited service	$20,000

(b) Notwithstanding subdivision (a), the amount identified in the schedule in subdivision (a) shall be reduced:

(1) By 50 percent for a beneficiary receiving an allowance under Option 3 or Option 7.

(2) By one-third for an option beneficiary receiving an allowance under Option 4 after the death of the member or for a member receiving an allowance under Option 4 after the death of the option beneficiary.

(3) By 50 percent for an option beneficiary receiving an allowance under Option 5 after the death of the member or for a member receiving an allowance under Option 5 after the death of the option beneficiary.

(4) By a percentage equal to 100 percent minus the percentage of the member's modified allowance received by the option beneficiary for each option beneficiary receiving an allowance under Option 8.

(5) By 60 percent for a surviving spouse receiving an allowance pursuant to subdivision (a) of Section 23805.

(6) By 50 percent for a surviving spouse receiving an allowance pursuant to subdivision (c) of Section 23805 or Section 23855.

(c) A member to whom a disability allowance is payable on January 1, 2000, who subsequently receives a service retirement allowance pursuant to Section 24213 shall, upon the retirement for service, receive an increase in the service retirement allowance pursuant to this section.

(d) A member, beneficiary, or surviving spouse may receive an allowance pursuant to this section only if the member was an active member at the time of the member's retirement, or death and, for those members who retired for service, the member retired on or after age 55, unless the member's allowance was not subject to a reduction due to retirement prior to an age specified in this part.

(e) A retired member, option beneficiary, or surviving spouse subject to this section shall receive the annual minimum allowance pursuant to this section unless the system receives in writing, on a form prescribed by the system, notification from the member, option beneficiary, or surviving spouse before May 1, 2000, of his or her election not to receive the increase provided under this section.

(f) Benefits payable under this section shall be initially paid by the system on July 1, 2000.

SEC. 2. There is hereby appropriated the sum of seven hundred fifty thousand dollars ($750,000) from the Teachers' Retirement Fund to the Teachers' Retirement Board for the payment of the administrative costs of implementing the provisions of Section 1 of this act.

CHAPTER 633

An act to amend Sections 21362, 21363, 21369, and 21370 of, and to add Section 21389 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 21362 of the Government Code is amended to read:

21362. (a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of patrol service and local safety service subject to this section with which he or she is credited at retirement.

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 1.5. Section 21362 of the Government Code is amended to read:

21362. (a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the

service retirement annuity that is derived from the accumulated normal contributions of the patrol member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of patrol service and local safety service subject to this section with which he or she is credited at retirement:

Age at retirement	Fraction
50	1.0000
50 1/4	1.0175
50 1/2	1.0350
50 3/4	1.0525
51	1.0700
51 1/4	1.0875
51 1/2	1.1050
51 3/4	1.1225
52	1.1400
52 1/4	1.1575
52 1/2	1.1750
52 3/4	1.1925
53	1.2100
53 1/4	1.2275
53 1/2	1.2450
53 3/4	1.2625
54	1.2800
54 1/4	1.2975
54 1/2	1.3150
54 3/4	1.3325
55 and over	1.3500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with

respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) With respect to patrol members, this section shall only apply to patrol members who are not employed by the state on or after January 1, 2000.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 2. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter

service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with

both state and local agency employers including, but not limited to, service subject to Section 21363.5 or 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1. This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(2) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(4) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(f) This section shall not apply to a person whose effective date of retirement is prior to the operative date of this section with respect to the bargaining unit of the person.

(g) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(h) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(i) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 2.2. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625

51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers including, but not limited to, service subject to Section 21363.5 and 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the

earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the legislative or judicial branch of government, this section shall apply to any state peace officer/firefighter member who is not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new

comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 2.4. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500

53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers including, but not limited to, service subject to Section 21363.5 or 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the

exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) This section shall not apply to a person whose effective date of retirement is prior to the operative date of this section with respect to the bargaining unit of the person.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety

member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 2.6. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	1.0000
50 1/4	1.0125
50 1/2	1.0250
50 3/4	1.0375
51	1.0500
51 1/4	1.0625
51 1/2	1.0750
51 3/4	1.0875
52	1.1000
52 1/4	1.1125
52 1/2	1.1250
52 3/4	1.1375
53	1.1500
53 1/4	1.1625
53 1/2	1.1750
53 3/4	1.1875
54	1.2000
54 1/4	1.2125
54 1/2	1.2250
54 3/4	1.2375
55 and over	1.2500

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section except as provided in Sections 21363.5 and 21363.6, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers including, but not limited to, service subject to Section 21363.5 or 21363.6, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the Legislature or judicial branch of government, this section shall apply to state peace officer/firefighter members who are not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 3. Section 21369 of the Government Code is amended to read:

21369. (a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon retirement after attaining age 55, is a pension derived from

contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining age 55, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

If the retirement age occurs at:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902
53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This paragraph shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety service to the agency, if any of the local safety service has been included in the federal system.

(g) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local

safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 3.5. Section 21369 of the Government Code is amended to read:

21369. (a) The combined prior and current service pension for a state safety member, and a local safety member with respect to service to a contracting agency subject to this section, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, police, fire, or county peace officer service that is credited to him or her as a state safety member or a local safety member subject to this section at retirement. Notwithstanding the preceding sentence, this section shall apply to the current and prior service pension for any other state safety member based on service to which it would have applied had the member, on July 1, 1971, been in employment described in Section 20403 or 20404.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

If the retirement age occurs at:	The percent for each year of credited service is:
50	0.713
50 1/4	0.725
50 1/2	0.737
50 3/4	0.749
51	0.761
51 1/4	0.775
51 1/2	0.788
51 3/4	0.801
52	0.814
52 1/4	0.828
52 1/2	0.843
52 3/4	0.857
53	0.871
53 1/4	0.886
53 1/2	0.902

53 3/4	0.917
54	0.933
54 1/4	0.950
54 1/2	0.966
54 3/4	0.983

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation. For state members who retire on or after January 1, 1995, and with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. For local members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) This section shall not apply to a person whose effective date of retirement is prior to July 1, 1971.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This subdivision shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates. It shall not apply to a local safety member employed by a contracting agency electing to be subject to this section after March 7, 1973, unless the agency elects to be subject to this paragraph by amendment to its contract or by appropriate provision of a contract entered into after this provision is effective and as to any member, the reduction in the percentage of final compensation shall apply to all local safety

service to the agency, if any of the local safety service has been included in the federal system.

(g) With the exception of state safety members for service rendered for the California State University, this section shall apply to state safety members who are not employed by the state on or after January 1, 2000.

(h) This section shall not apply to a contracting agency nor its employees until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

SEC. 4. Section 21370 of the Government Code is amended to read:

21370. (a) The combined prior and current service pension for local safety members with respect to service to a contracting agency subject to this section, upon retirement after attaining 56 years of age, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year in the following table, multiplied by the number of years of service credited to him or her as a local safety member subject to this section at retirement.

Upon retirement for service prior to attaining 56 years of age, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for the actual age at retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	.8565
50 1/4	.8650
50 1/2	.8740
50 3/4	.8830
51	.8920
51 1/4	.9020
51 1/2	.9120
51 3/4	.9222
52	.9330

52 1/4	.9410
52 1/2	.9490
52 3/4	.9570
53	.9650
53 1/4	.9675
53 1/2	.9700
53 3/4	.9725
54	.9750
54 1/4	.9810
54 1/2	.9870
54 3/4	.9935
55	1.0000
55 1/4	1.0435
55 1/2	1.0870
55 3/4	1.1310
56	1.1750

(b) This section shall apply only to local police officers and county peace officers who are local safety members.

(c) This section shall not apply to persons whose effective date of retirement is prior to January 1, 1985.

(d) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(e) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This paragraph shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates.

(f) For members who retire prior to January 1, 2000, in no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to the service, equals 75 percent of final compensation. For members who retire on or after January 1, 2000, the allowance shall not exceed 85 percent of final compensation. If the pension relates to service for more than one employer and would otherwise exceed the maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to the employer bears to the total allowance computed as though there

were no limit, so that the total of the pensions shall equal the maximum.

(g) This section shall only apply as an optional contributory retirement formula for this system local safety groups whose group participated in Federal Old Age and Survivors' Insurance provisions of the Social Security Act on April 1983.

(h) This section shall not apply to a contracting agency nor its employees until the agency and the representative employee organization agree by memorandum of understanding to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts. It shall also be required that the representative employee organizations agree to be subject to this provision.

(i) The operative date of this section with respect to a local safety member shall be the effective date of the amendment to the employer's contract electing to be subject to this section.

SEC. 4.5. Section 21370 of the Government Code is amended to read:

21370. (a) The combined prior and current service pension for local safety members with respect to service to a contracting agency subject to this section, upon retirement after attaining 56 years of age, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year in the following table, multiplied by the number of years of service credited to him or her as a local safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining 56 years of age, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for the actual age at retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	.8565
50 1/4	.8650
50 1/2	.8740
50 3/4	.8830
51	.8920
51 1/4	.9020
51 1/2	.9120

51 3/4	.9222
52	.9330
52 1/4	.9410
52 1/2	.9490
52 3/4	.9570
53	.9650
53 1/4	.9675
53 1/2	.9700
53 3/4	.9725
54	.9750
54 1/4	.9810
54 1/2	.9870
54 3/4	.9935
55	1.0000
55 1/4	1.0435
55 1/2	1.0870
55 3/4	1.1310
56	1.1750

(c) This section shall apply only to local police officers and county peace officers who are local safety members.

(d) This section shall not apply to persons whose effective date of retirement is prior to January 1, 1985.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation that does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This paragraph shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates.

(g) For members who retire prior to January 1, 2000, in no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to the service, equals 75 percent of final compensation. For members who retire on or after January 1, 2000, the allowance shall not exceed 85 percent of final compensation. If the pension relates to service for more than one employer and would otherwise exceed the maximum, the pension payable with respect to each employer shall be reduced

in the same proportion as the allowance based on service to the employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(h) This section shall only apply as an optional contributory retirement formula for this system local safety groups whose group participated in Federal Old Age and Survivors' Insurance provisions of the Social Security Act on April 1983.

(i) This section shall not apply to a contracting agency nor its employees until the agency and the representative employee organization agree by memorandum of understanding to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts. It shall also be required that the representative employee organizations agree to be subject to this provision.

(j) The operative date of this section with respect to a local safety member shall be the effective date of the amendment to the employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 5. Section 21389 is added to the Government Code, to read:

21389. Notwithstanding Sections 21362, 21362.2, 21363, 21363.1, 21369, and 21370, for local safety members who retire on or after January 1, 2000, and with respect to all local safety service rendered to a contracting agency that is subject to any of those sections, the benefit limit shall be 85 percent rather than 75 percent of final compensation.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 21362 of the Government Code proposed by both this bill and SB 400. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21362 of the Government Code, and (3) this bill is enacted after SB 400, in which case Section 1 of this bill shall not become operative.

SEC. 7. (a) Section 2.2 of this bill incorporates amendments to Section 21363 of the Government Code proposed by both this bill and SB 400. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21363 of the Government Code, (3) AB 813 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 400, in which case Sections 2, 2.4, and 2.6 of this bill shall not become operative.

(b) Section 2.4 of this bill incorporates amendments to Section 21363 of the Government Code proposed by both this bill and AB 813. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21363 of the Government Code, (3) SB 400 is not enacted or as enacted does not amend that section, and (4) this bill is enacted

after AB 813, in which case Sections 2, 2.2, and 2.6 of this bill shall not become operative.

(c) Section 2.6 of this bill incorporates amendments to Section 21363 of the Government Code proposed by this bill, SB 400, and AB 813. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) all three bills amend Section 21363 of the Government Code, and (3) this bill is enacted after SB 400, and AB 813, in which case Sections 2, 2.2, and 2.4 of this bill shall not become operative.

SEC. 8. Section 3.5 of this bill incorporates amendments to Section 21369 of the Government Code proposed by both this bill and SB 400. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21369 of the Government Code, and (3) this bill is enacted after SB 400, in which case Section 3 of this bill shall not become operative.

SEC. 9. Section 4.5 of this bill incorporates amendments to Section 21370 of the Government Code proposed by both this bill and AB 813. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 21370 of the Government Code, and (3) this bill is enacted after AB 813, in which case Section 4 of this bill shall not become operative.

CHAPTER 634

An act to add Sections 11462.07 and 16500.1 to the Welfare and Institutions Code, relating to child welfare services, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 5, 1999.]

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

SECTION 1. Section 11462.07 is added to the Welfare and Institutions Code, to read:

11462.07. Notwithstanding subdivision (h) of Section 11462, for the 1999–2000 fiscal year, a group home program that received an AFDC-FC rate for the 1998–99 fiscal year at or above the standard rate for its RCL for that fiscal year shall have its rate increased by the same percentages and on the same effective dates as provided for in subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 11462.

SEC. 2. Section 16500.1 is added to the Welfare and Institutions Code, to read:

16500.1. (a) It is the intent of the Legislature to use the strengths of families and communities to serve the needs of children who are alleged to be abused or neglected, as described in Section 300, to reduce the necessity for removing these children from their home, to encourage speedy reunification of families when it can be safely accomplished, to locate permanent homes and families for children who cannot return to their biological families, to reduce the number of placements experienced by these children, to ensure that children leaving the foster care system have support within their communities, to improve the quality and homelike nature of out-of-home care, and to foster the educational progress of children in out-of-home care.

(b) In order to achieve the goals specified in subdivision (a), the state shall encourage the development of approaches to child protection that do all of the following:

(1) Allow children to remain in their own schools, in close proximity to their families.

(2) Increase the number and quality of foster families available to serve these children.

(3) Use a team approach to foster care that permits the biological and foster family to be part of that team.

(4) Use team decisionmaking in case planning.

(5) Provide support to foster children and foster families.

(6) Ensure that licensing requirements do not create barriers to recruitment of qualified, high quality foster homes.

(7) Provide training for foster parents and professional staff on working effectively with families and communities.

(8) Encourage foster parents to serve as mentors and role models for biological parents.

(9) Use community resources, including community-based agencies and volunteer organizations, to assist in developing placements for children and to provide support for children and their families.

(10) Ensure an appropriate array of placement resources for children in need of out-of-home care.

(c) In carrying out the requirements of subdivision (b), the department shall do all of the following:

(1) Consider the existing array of program models provided in statute and in practice, including, but not limited to, wraparound services, as defined in Section 18251, children's systems of care, as provided for in Section 5852, the Oregon Family Unity or Santa Clara County Family Conference models, which include family conferences at key points in the casework process, such as when out-of-home placement or return home are considered, and the Annie E. Casey Foundation Family to Family initiative, which uses team decisionmaking in case planning, community-based placement practices requiring that children be placed in foster care in the

communities where they resided prior to placement, and involve foster families as team members in family reunification efforts.

(2) Ensure that emergency response services, family maintenance services, family reunification services, and permanent placement services are coordinated with the implementation of the models described in paragraph (1).

(3) Ensure consistency between child welfare services program regulations and the program models described in paragraph (1).

(d) The department, in conjunction with stakeholders, including, but not limited to, county child welfare services agencies, foster parent and group home associations, the California Youth Connection, and other child advocacy groups, shall review the existing child welfare services program regulations to ensure that these regulations are consistent with the legislative intent specified in subdivision (a). This review shall also determine how to incorporate the best practice guidelines for assessment of children and families receiving child welfare and foster care services, as required by Section 16501.2.

(e) The department shall report to the Legislature on the results of the actions taken under this section on or before January 1, 2002.

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.

CHAPTER 635

An act to amend Section 831.5 of the Penal Code, relating to crime prevention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 831.5 of the Penal Code, as amended by Section 8 of Chapter 606 of the Statutes of 1998, is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, Kern County, Stanislaus County, Riverside County, Santa Clara County, or a county having a population of 425,000 or less who has the authority and responsibility

for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. Custodial officers of a county shall be employees of, and under the authority of, the sheriff, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of a custodial officer may include the serving of warrants, court orders, writs, and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks. In counties having a population of 100,000 or less, a custodial officer may be assigned by the sheriff as a court bailiff on an interim basis, and, when under the direction of the sheriff, a custodial officer assigned as a court bailiff may carry or possess firearms.

(b) Notwithstanding any other provision of law, during a state of emergency as defined in Section 8558 of the Government Code, a custodial officer may be assigned limited law enforcement responsibilities under the supervision of a peace officer. While on this assignment, the custodial officer may exercise the powers of arrest pursuant to Section 836.5.

(c) A custodial officer has no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while assigned as a court bailiff or engaged in transporting prisoners, guarding hospitalized prisoners, or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(d) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer, as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(e) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on

duty at the same time to supervise the performance of the custodial officers.

(f) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(g) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer, may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant, may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job, may release without further criminal process persons arrested for intoxication, and may release misdemeanants on citation to appear in lieu of or after booking.

(h) Custodial officers employed by the Santa Clara County Department of Corrections are authorized to perform the following additional duties in the facility:

(1) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce.

(2) Search property, cells, prisoners, or visitors.

(3) Conduct strip or body cavity searches of prisoners pursuant to Section 4030.

(4) Conduct searches and seizures pursuant to a duly issued warrant.

(5) Segregate prisoners.

(6) Classify prisoners for the purpose of housing or participation in supervised activities.

These duties may be performed at the Santa Clara Valley Medical Center as needed and only as they directly relate to guarding inpatient, in-custody inmates. This subdivision shall not be construed to authorize the performance of any law enforcement activity involving any person other than the inmate or his or her visitors.

(i) Nothing in this section shall authorize a custodial officer to carry or possess a firearm when the officer is not on duty.

(j) It is the intent of the Legislature that this section, as it relates to Santa Clara County, enumerate specific duties of custodial officers (known as "correctional officers" in Santa Clara County) and to clarify the relationships of the correctional officers and deputy sheriffs in Santa Clara County. These duties are the same duties of the custodial officers prior to the date of enactment of Senate Bill 1019 of the 1999–2000 Regular Session of the Legislature pursuant to local rules and judicial decisions. It is further the intent of the Legislature that all issues regarding compensation for custodial officers remain subject to the collective bargaining process between the County of Santa Clara and the authorized bargaining representative for the custodial officers. However, nothing in this section shall be construed to assert that the duties of custodial officers are equivalent to the

duties of deputy sheriffs nor to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs.

(k) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 2. Section 831.5 of the Penal Code, as added by Section 8.5 of Chapter 606 of the Statutes of 1998, is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, Kern County, Stanislaus County, Riverside County, Santa Clara County, or a county having a population of 425,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. Custodial officers of a county shall be employees of, and under the authority of, the sheriff, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of a custodial officer may include the serving of warrants, court orders, writs, and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer has no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer, as described in Section 830.1, who has completed the training prescribed by the Commission

on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

(g) Custodial officers employed by the Santa Clara County Department of Corrections are authorized to perform the following additional duties in the facility:

(1) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce.

(2) Search property, cells, prisoners or visitors.

(3) Conduct strip or body cavity searches of prisoners pursuant to Section 4030.

(4) Conduct searches and seizures pursuant to a duly issued warrant.

(5) Segregate prisoners.

(6) Classify prisoners for the purpose of housing or participation in supervised activities.

These duties may be performed at the Santa Clara Valley Medical Center as needed and only as they directly relate to guarding inpatient, in-custody inmates. This subdivision shall not be construed to authorize the performance of any law enforcement activity involving any person other than the inmate or his or her visitors.

(h) Nothing in this section shall authorize a custodial officer to carry or possess a firearm when the officer is not on duty.

(i) It is the intent of the Legislature that this section, as it relates to Santa Clara County, enumerate specific duties of custodial officers (known as "correctional officers" in Santa Clara County) and to clarify the relationships of the correctional officers and deputy sheriffs in Santa Clara County. These duties are the same duties of the custodial officers prior to the date of enactment of Senate Bill 1019 of the 1999–2000 Regular Session of the Legislature pursuant to local rules and judicial decisions. It is further the intent of the Legislature that all issues regarding compensation for custodial officers remain

subject to the collective bargaining process between the County of Santa Clara and the authorized bargaining representative for the custodial officers. However, nothing in this section shall be construed to assert that the duties of custodial officers are equivalent to the duties of deputy sheriffs nor to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs.

(j) This section shall become operative on January 1, 2003.

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 finally, fully, and expeditiously implement the voters' wishes in creating the county department of corrections, giving it explicit direction to operate the county jails for all sentenced and unsentenced prisoners under authority of the county board of supervisors, it is necessary that this act take effect immediately.

CHAPTER 636

An act to amend Sections 69522, 69529, 69761, 69763, 69766, 69766.1, 69767, and 69768 of the Education Code, relating to student financial aid, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 69522 of the Education Code is amended to read:

69522. (a) The commission may establish an auxiliary organization for the purpose of providing operational and administrative services for the commission's participation in the Federal Family Education Loan Program.

(b) The auxiliary organization shall be established as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) The commission shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program, if those services are determined by the commission to be

consistent with the overall mission of the commission. The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of commission programs and services.

(d) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the commission. On and after January 1, 2002, the commission may approve an operating agreement for a period not to exceed five years. Prior to approval, the commission shall provide the proposed operating agreement to the Department of Finance for its review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 2. Section 69529 of the Education Code is amended to read:

69529. The operating agreement with the board of directors of the auxiliary organization, approved by the commission pursuant to subdivision (d) of Section 69522, shall cover all of the following:

(a) Any support services provided or special programs administered by the auxiliary organization.

(b) The sources of revenue available to the auxiliary organization, including agreements concerning federal administrative cost allowances, guarantee fees charged to borrowers, and retention of funds obtained through collections on defaulted loans.

(c) Support and administrative services to be provided by commission staff, including accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

SEC. 3. Section 69761 of the Education Code is amended to read:

69761. (a) The purposes of California's participation in the Federal Family Education Loan Program are as follows:

(1) To ensure that, in meeting their educational costs, a source of loans is available to assist the greatest number of eligible resident students.

(2) To ensure that loans are available to eligible resident students that meet the criterion set forth in paragraph (1), the commission is authorized to provide a source of loans to eligible students within and outside California irrespective of their residence or the location of their educational institution, to assist them in meeting educational costs at eligible schools of their choice.

(3) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress in any jurisdiction permitted under the Higher Education Act.

(b) The Legislature finds and declares that subdivision (a), as amended during the 1999 portion of the 1999–2000 Regular Session, reflects the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996, and is therefore declaratory of existing law.

SEC. 4. Section 69763 of the Education Code is amended to read:

69763. (a) (1) The commission shall administer the Federal Family Education Loan Program as authorized pursuant to this chapter. The commission may enter into any contract with the United States Secretary of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, may cooperate with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The commission shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

(2) Loans or loan guarantees issued by the commission, irrespective of the domicile of the eligible student or the location of the educational institution attended by the eligible student, prior to the effective date of amendments made to this section during the 1999 portion of the 1999–2000 Regular Session, have been determined by the Legislature to be consistent with the purposes of California's participation in the Federal Family Education Loan Program, and within the authority of the commission to administer that program, and consistent with the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996.

(b) The rules and regulations adopted by the commission pursuant to this section shall include a provision authorizing the commission to impose a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) per violation against any financial or educational institution that violates any applicable law, rule, regulation, limitation, consent agreement, or school or lender agreement, relative to a state financial aid program. The rules and regulations adopted pursuant to this section shall provide all of the following:

(1) No civil penalty shall be imposed against an institution without first affording that institution an opportunity to request a hearing and, if a request for a hearing is made, a hearing shall be held before a representative of the commission.

(2) No civil penalty shall be imposed against an institution unless an action against that institution has been initiated pursuant to Section 30302 or 30304 of Title 5 of the California Code of Regulations.

(c) Any moneys derived from the assessment of penalties pursuant to this section shall be deposited into the Student Loan Operating Fund.

SEC. 5. Section 69766 of the Education Code is amended to read:

69766. (a) The Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby created in the State

Treasury. On January 1, 2000, the State Guaranteed Loan Reserve Fund shall cease to exist, and funds deposited, or required to be deposited in that fund, shall be transferred to the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law.

(b) All money received for the purposes of this article from federal, state or local governments, including any money deposited in the State Guaranteed Loan Reserve Fund, or from other private or public sources, shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law. Funds deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund are not part of the General Fund, as defined in Section 16300 of the Government Code. No moneys from the General Fund shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund.

(c) The contents of the Federal Student Loan Reserve Fund are federal funds, administered in accordance with federal laws and regulations. The contents of the Student Loan Operating Fund are state funds within the custody and control of the Student Aid Commission.

(d) Notwithstanding Section 13340 of the Government Code, all moneys deposited in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby continuously appropriated, without regard to fiscal years, for purposes of this article. The continuous appropriation made by this section shall be available to assume the obligation under any outstanding budget act appropriation from the State Guaranteed Loan Reserve Fund as it existed prior to January 1, 2000.

(e) The total amount of all outstanding debts, obligations, and liabilities that may be incurred or created under this article, including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof or amendments thereto, or any similar act of Congress, is limited to the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund, and the state shall not be liable to the United States, or to any other person or entity, beyond the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund for any debts, obligations, and liabilities.

SEC. 6. Section 69766.1 of the Education Code is amended to read:

69766.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are appropriated pursuant to Section 69766, there is hereby continuously appropriated from the Federal Student Loan Reserve Fund and the Student Loan

Operating Fund to the commission, the amount of funds necessary to make payments for the purchase of defaulted loans.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the Student Loan Operating Fund for transfer to the Federal Student Loan Reserve Fund, all federal reinsurance payments received on defaulted student loans and deposited in the Student Loan Operating Fund.

(c) The appropriation authorized by this section shall be operative only if the annual Budget Act for the fiscal year is not chaptered on or before July 15, and shall not exceed the amount deemed by the commission to be required by federal law or regulation. The commission shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

SEC. 7. Section 69767 of the Education Code is amended to read:

69767. The Treasurer shall invest, pursuant to statute, any surplus money in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund. The interest or other accretions as a result of the investment of this money shall be deposited in the originating fund, and may be expended for those purposes authorized in this article or the Higher Education Act of 1965.

SEC. 8. Section 69768 of the Education Code is amended to read:

69768. (a) The funds in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund shall be paid out by the State Treasurer on warrants drawn by the Controller, or through a transfer between the Federal Student Loan Reserve Fund and the Student Loan Operating Fund, and requisitioned by the commission in carrying out the purposes of this article and the federal act.

(b) The commission is hereby authorized to make advance payments from the Student Loan Operating Fund to the auxiliary organization for services rendered to the commission under Article 2.5 (commencing with Section 69522). Notwithstanding any other provision of law, advance payments to the auxiliary organization and any fees charged by the auxiliary organization for services rendered to the commission pursuant to an operating agreement may be deposited with a private financial institution.

CHAPTER 637

An act to amend Section 8869.83 of the Government Code, and to amend Sections 50880, 50881, 50881.5, 50882, and 50888.3 of, to add Chapter 6.7 (commencing with Section 50675) to Part 2 of Division 31 of, and to repeal Sections 50887, 50888.5, 50888.7, 50889.5, 50893.5, 50893.7, and 50893.9 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8869.83 of the Government Code is amended to read:

8869.83. (a) There is in state government the California Debt Limit Allocation Committee, consisting of six members as follows:

(1) The Treasurer, or his or her designee.

(2) The Controller, or his or her designee.

(3) The Governor, or his or her designee.

(4) The Director of Housing and Community Development, who shall be a nonvoting member.

(5) The Executive Director of the California Housing Finance Agency, who shall be a nonvoting member.

(6) A representative from local government who shall be a nonvoting member, selected by two voting members of the committee.

(b) The Treasurer shall serve as chairperson of the committee and the office of the Treasurer shall provide an executive director and any administrative assistance and support staff that is needed for the committee to operate. The chairperson shall keep, or cause to be kept, minutes and other records and documents of the committee. The committee may authorize the executive director to enter into contracts on behalf of the committee.

(c) Members of the committee shall serve without compensation.

(d) Two voting members of the committee shall constitute a quorum. The affirmative vote of two voting members of the committee shall be necessary for any action taken by the committee. However, the committee may, by unanimous vote, delegate to its chairperson the authority to carry out any acts empowered to it under this chapter.

SEC. 2. Chapter 6.7 (commencing with Section 50675) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6.7. MULTIFAMILY HOUSING PROGRAM

50675. The Legislature finds and declares all of the following:

(a) Large numbers of California's renters face excessive housing costs and live in overcrowded or substandard units. Many of these renters also have special housing needs arising from their employment status, age, or disability, and live in communities suffering from a lack of investment.

(b) In previous years, the state has attempted to address the needs of California renters through a series of small programs operated by the Department of Housing and Community Development, each offering financing targeted at a specific population or building type.

These programs were typically highly successful in addressing local housing and community development needs. However, because each individual program came with a unique set of rules, the programs were often costly and time consuming to administer, for both the state and program users.

(c) A more efficient method to address renter housing needs would be to operate one omnibus multifamily housing program modeled upon an existing successful program. This omnibus program would provide a standardized set of program rules and features applicable to all housing types. As particular needs are identified, it may be easily and quickly customized to meet those needs.

(d) It is the intent of the Legislature that the Multifamily Housing Program created by this chapter constitute this omnibus multifamily housing program, and that it be based on the department's existing California Housing Rehabilitation Program as established and described in Subchapter 8 (commencing with Section 7670) of Chapter 7 of Part 1 of Title 25 of the California Code of Regulations.

(e) The Multifamily Housing Program is intended to take the place of the following department programs:

(1) The Deferred-Payment Rehabilitation Loan Program established by Chapter 6.5 (commencing with Section 50660).

(2) The Rental Housing Construction Program established by Chapter 9 (commencing with Section 50735).

(3) The Family Housing Demonstration Program established by Section 5 of Chapter 30 of the Statutes of 1988.

Repeal of the statutes establishing these programs would be administratively problematic because the department still administers a portfolio of loans from these programs. Therefore, in lieu of repeal, it is the Legislature's intent that no further allocation of funds be made to these programs and that any and all future funds that would have been appropriated to these programs shall be appropriated instead to the Multifamily Housing Program.

50675.1. (a) This chapter shall be known and may be cited as the Multifamily Housing Program.

(b) Assistance provided to a project pursuant to this chapter shall be provided in the form of a deferred payment loan to pay for the eligible costs of development as hereafter described.

(c) This chapter shall be administered by the department and the department shall establish the terms upon which loans may be made consistent with the provisions of this chapter.

50675.2. The definitions of this section shall apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this chapter, or unless the context requires otherwise, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 shall also apply to this chapter.

(a) "Affordable rent" shall be established by the department to be consistent with the rent limitations imposed by the Low Income

Housing Tax Credit Program, as administered by the California Tax Credit Allocation Committee.

(b) "Assisted unit" means a unit that is affordable to a lower income household as a result of a loan provided pursuant to this chapter. In order to ensure consistency with the Low Income Housing Tax Credit Program, occupancy of assisted units shall be limited to households whose income does not exceed the limits specified by the California Tax Credit Allocation Committee.

(c) "Maintain affordable rent levels" means rents may be increased by the sponsor on an annual basis in the amount that would be allowed if the project was subject to the requirements of the Low Income Housing Tax Credit Program established pursuant to Section 42 of the federal Internal Revenue Code.

(d) "Rental housing development" means a structure or set of structures with common financing, ownership, and management, and which collectively contain five or more dwelling units, including efficiency units. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures.

(e) "Rehabilitation," in addition to the meaning set forth in Section 50096, includes improvements and repairs made to a residential structure acquired for the purpose of preserving its affordability.

(f) "Rent-up costs" means costs incurred while a unit is on the housing market but not rented to its first tenant.

(g) "Sponsor" has the same meaning as defined in subdivision (c) of Section 50669, and also includes a limited partnership in which the sponsor or an affiliate of the sponsor is a general partner.

(h) "Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

50675.3. Any moneys appropriated and made available by the Legislature for the purposes of this chapter and all moneys received by the department in repayment of loans made pursuant to this chapter, including interest and payments in advance in lieu of future interest, shall be deposited in the Housing Rehabilitation Loan Fund established by Section 50661. These moneys shall be used for the purposes of this chapter, including the implementation and operation of the program created by this chapter, and the administrative expenses of the department shall not exceed 5 percent of the funds appropriated by the Legislature for the purposes of this chapter.

50675.4. (a) To be eligible to receive a loan, a proposed project shall involve one or more of the following activities:

(1) The development and construction of a new transitional or rental housing development.

(2) The rehabilitation, or acquisition and rehabilitation, of a transitional or rental housing development.

(3) The conversion of a nonresidential structure to a transitional or rental housing development.

(b) In the case of rehabilitation projects, to be eligible to receive a loan, the loan shall be necessary to avoid increases in monthly debt service that have either of the following effects:

(1) Result in rent increases causing permanent displacement of persons of lower income residing in the development prior to rehabilitation.

(2) Make it economically infeasible to accept subsidies available to provide affordable rents to persons of lower income, if the sponsor agrees to accept the subsidies.

(c) To be eligible to receive a loan, the sponsor shall agree to set and maintain affordable rent levels for assisted units.

50675.5. (a) Eligible costs shall include the cost of developing dwelling units, transitional housing, and child care, and after school care and social service facilities integrally linked to the assisted dwelling units.

(b) Eligible cost categories shall include all of the following:

(1) Real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project.

(2) New construction or rehabilitation, including the conversion of nonresidential structures to residential use.

(3) General property improvements that are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning.

(4) Necessary and related onsite and offsite improvements.

(5) Reasonable developer fees.

(6) Reasonable consulting costs.

(7) Initial operating costs for housing units.

(8) Capitalized reserves for replacement and operation. The department may allow capitalized operating reserves to be used for rent subsidies for assisted units reserved for occupancy by households with incomes below limits determined by the department, which shall not exceed the income limit for very low income households.

(9) Any other costs of rehabilitation or new construction authorized by the department.

50675.6. (a) A sponsor may apply for loans for one or more rental or transitional housing developments. A housing development may utilize any combination of federal, state, local, and private financial

resources necessary to make the development affordable, for the term of the state's regulatory agreement, to the eligible households.

(b) (1) Loans made pursuant to subdivision (f) of Section 50675.7 to sponsors by a local public entity as part of its code enforcement efforts for rental housing developments involving rehabilitation shall only be for terms of not less than 20 years. All other loans shall be for a term of not less than 55 years.

(2) The term of a loan and the time for repayment may be extended for additional 10-year terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter.

(c) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear simple interest at the rate of 3 percent per annum on the unpaid principal balance. The department may forgive that portion of that loan that is used to cover costs of developing child care facilities. The department shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 30 years of the loan term, the amount of the required loan payments shall not exceed forty-two hundredths of 1 percent (.42%) per annum.

(d) The department may establish maximum loan-to-value requirements for some or all of the types of projects that are eligible for funding under this chapter.

(e) The department shall establish per-unit and per-project loan limits for all project types.

50675.7. Loans shall be provided using a project selection process established by the department that meets all of the following requirements:

(a) To the extent feasible, this process shall be coordinated with the processes of other major housing funding sources, including that of the California Tax Credit Allocation Committee, and shall ensure a reasonable geographic distribution of funds.

(b) The process shall require that applications for projects meet minimum threshold requirements, including, but not limited to, all of the following:

(1) The proposed project shall be located within reasonable proximity to public transportation and services.

(2) Development costs for the proposed project shall be reasonable compared to costs of comparable projects in the local area.

(3) The proposed project shall be feasible.

(4) The sponsor shall have the capacity to own and develop the proposed project.

(c) Projects that meet threshold requirements shall be evaluated for funding based on weighted underwriting and evaluative criteria that give consideration to projects that meet the following criteria:

(1) Serve households at the lowest income levels, consistent with long-term feasibility, considering regional variations.

(2) Address the most serious identified local housing needs.

(3) Will be developed and owned by entities with substantial and successful experience.

(4) Contain a significant percentage of units for families or special needs populations.

(5) Leverage other funds in those jurisdictions where they are available.

(d) The department may establish alternate project selection processes, threshold requirements, and priorities for funds appropriated for special purposes. These alternate processes, requirements, and priorities shall be tied to the specific needs and objectives for which the funds have been appropriated.

(e) Loans for rental housing developments and transitional housing may be reviewed, approved, and funded by the department directly to the sponsor. The department shall ensure that the sponsor notifies the local legislative body of the sponsor's loan application prior to application submission.

(f) The department may make grants to local public entities using funds reserved by the Legislature for rehabilitation, or acquisition and rehabilitation, in support of code enforcement. The local entities shall then make the funds available as loans, and they may be allowed to collect and retain loan repayments, provided that these repayments are reloaned in accordance with the requirements of this chapter, as it relates to funds used in support of code enforcement.

50675.8. (a) Prior to disbursement of any funds for loans to rental housing developments made pursuant to this chapter, the department shall enter into a regulatory agreement with the sponsor that provides for all of the following:

(1) Sets standards for tenant selection to ensure occupancy of assisted units by eligible households of very low and low income for the term of the agreement.

(2) Governs the terms of occupancy agreements.

(3) Contains provisions to maintain affordable rent levels to serve eligible households.

(4) Provides for periodic inspections and review of yearend fiscal audits and related reports by the department.

(5) Permits a sponsor to distribute earnings in an amount established by the department and based on the number of units in the rental housing development.

(6) Has a term for not less than the original term of the loan.

(7) Contains any other provisions necessary to carry out the purposes of this chapter.

(b) The agreement shall be binding upon the sponsor and successors in interest upon sale or transfer of the rental housing development regardless of any prepayment of the loan.

(c) The agreement shall be recorded in the office of the county recorder in the county in which the real property subject to the agreement is located.

50675.9. Where the requirements of federal funding for a project, or the requirements of the low-income housing tax credits used in a project, would cause a violation of the requirements of this chapter, the requirements of this chapter may be modified as necessary to ensure program compatibility. Where the requirements of federal funding or tax credits create what are deemed to be minor inconsistencies as determined by the director of the department, the department may waive the requirements of this chapter as deemed necessary to avoid an unnecessary administrative burden.

50675.10. (a) The department may designate an amount not to exceed 4 percent of funds appropriated for use pursuant to this chapter for the purposes of curing or averting a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the rental housing development assisted pursuant to this chapter. The funds so designated shall be known as the "default reserve."

(b) The department may use default reserve funds made available pursuant to this section to repair or maintain any rental housing development assisted pursuant to this chapter that was acquired to protect the department's security interest.

(c) The payment or advance of funds by the department pursuant to this section shall be exclusively within the department's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds. The amount of any funds expended by the department for the purposes of curing or averting a default shall be added to the loan amount secured by the rental housing development and shall be payable to the department upon demand.

50675.11. If an appropriation is made by the Legislature for the purposes of this chapter in an amount of twenty million dollars ($20,000,000) or less, the department may administer the funds with guidelines that shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If an appropriation exceeds twenty million dollars ($20,000,000), the department may administer the funds with guidelines for 15 months, during which time the guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

SEC. 3. Section 50880 of the Health and Safety Code is amended to read:

50880. (a) The Legislature finds and declares all of the following:

(1) That there are more than 600,000 families in California who face the enormous challenge of moving rapidly from welfare to work in order to meet federal and state deadlines.

(2) That a significant number of these families face substantial obstacles in meeting these deadlines inasmuch as a vast percentage of these families pay 50 to 80 percent of their welfare checks for housing, live in counties with unemployment rates that are as high as 30 percent, cannot locate infant or child care because of no availability or long waiting lists, and lack personal or public transportation.

(3) That approximately 1,500,000 children receiving Aid to Families with Dependent Children (AFDC) will require child care when their mothers begin private or public employment and that only four out of every 100 slots in licensed child care centers are open to infants.

(4) That most of the 600,000 parents who will be required to work lack training, and a high percentage lack a high school diploma, job experience, and job retention skills in order to earn the income necessary to sustain themselves and their children without welfare assistance. Studies demonstrate that a welfare mother in Los Angeles with one toddler will need to find a job earning thirteen dollars and seven cents ($13.07) per hour in order to provide housing, and the basic necessities and health care. A mother of two needs seventeen dollars and ten cents ($17.10) per hour.

(5) That in response to this complex problem facing so many endangered families, assistance to families moving to work shall be provided under the "Families Moving to Work Program" which shall be operated as a component of the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675), through which the Department of Housing and Community Development shall test innovative strategies of providing affordable housing combined with child care and a job training program. The housing shall be located on a main transportation system.

(b) The Legislature intends that the funds included in Item 2240-106-0001 of the Budget Act of 1999 be used as an integral part of a county's welfare plan as a means of assisting families qualifying for CalWORKs benefits and experiencing the greatest difficulty moving from welfare to work. The Legislature further intends for this to be a transitional program that will provide focused, enriched resources to CalWORKs households during the period of moving from welfare to work, and that upon the completion of the program, the household's assistance will be terminated and then a new CalWORKs household will be provided assistance in the Families Moving to Work Program. The Legislature intends that the department may establish goals and timelines for moving from welfare to work, and that broad criteria for this transition shall be applied to households on an individual basis.

(c) The Legislature finds and declares that the legislative findings and declarations set forth in Sections 1 to 5, inclusive, of both Chapters 1042 and 1043 of the Statutes of 1979, remain valid and are applicable to the program enacted by this chapter. The Legislature

finds and declares that there is an urgent need to establish a program to design new living environments, part of which will include social and economic programs, so that working parents, jobseeking parents, and homeless parents can build productive lives for themselves and their children.

SEC. 4. Section 50881 of the Health and Safety Code is amended to read:

50881. This chapter shall be known and may be cited as the Families Moving to Work Program. The Families Moving to Work Program shall be operated as a component of the Multifamily Housing Program of the department (Chapter 6.7 (commencing with Section 50675)).

SEC. 5. Section 50881.5 of the Health and Safety Code is amended to read:

50881.5. The definitions in this section apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this chapter, or unless the context requires otherwise, the definitions in Chapter 2 (commencing with Section 50050) of Part 1 and Chapter 6.7 (commencing with Section 50675) also apply to this chapter.

(a) "Community housing development" means a development of 20 or more rental or cooperative units on one or more sites, that includes the social and economic features described in this chapter.

(b) "Congregate housing" or "congregate housing development," means a new or rehabilitated large multibedroom structure in which more than two families share common living areas and child care, cleaning, cooking, and other household responsibilities.

(c) "Sponsor" means any nonprofit corporation, cooperative, or local public agency, or any combination thereof, including limited partnerships in which the managing general partner is an eligible nonprofit corporation.

SEC. 6. Section 50882 of the Health and Safety Code is amended to read:

50882. (a) The Families Moving to Work Account is hereby established in the Rental Housing Construction Fund. The account shall be organized into subaccounts as provided in this chapter. All of the following moneys shall be paid into the account:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the account.

(2) Any moneys that the department receives in repayment or return of loans made from the account, including any interest on those loans.

(3) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(b) Notwithstanding Section 13340 of the Government Code, all money in the account is hereby continuously appropriated to the department and shall be utilized for the purposes of Article 1

(commencing with Section 50880) to Article 4 (commencing with Section 50893), inclusive, including administrative expenses of the department for the implementation and operation of the programs created by this chapter. All interest or other increment resulting from investment or deposit of moneys in the account shall be deposited in the account, notwithstanding Section 16305.7 of the Government Code. Moneys in the account are not subject to transfer to any other fund, except as set forth in this chapter, pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(c) At the time funding availability is announced by the department, the department may apportion funds available for loans between community housing developments and congregate housing developments. The plan for apportioning funds may include a priority for funding loans for new construction, acquisition and rehabilitation, or rehabilitation.

(d) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered account balance and reserves shall be transferred out of the Family Housing Demonstration Account, but shall be retained within the Rental Housing Construction Fund.

(e) Notwithstanding any other provision of law, the funds transferred to the Rental Housing Construction Fund pursuant to Item 2240-106-0001 of the Budget Act of 1999 shall be transferred into the Housing Rehabilitation Loan Fund to be used only for the purposes of this chapter. Repayments shall be made to the Housing Rehabilitation Loan Fund and may be used for any eligible purpose of that fund.

SEC. 7. Section 50887 of the Health and Safety Code is repealed.

SEC. 8. Section 50888.3 of the Health and Safety Code is amended to read:

50888.3. (a) Housing assisted pursuant to this chapter shall be subject to the following provisions:

(1) For the period during which the development benefits from assistance provided pursuant to this chapter, and not less than 10 years, households moving into assisted units must be comprised of CalWORKs recipients and their families.

(A) Following this period, occupancy shall be limited in accordance with the provisions of the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675).

(2) Child care must be available to all households living in assisted units. The child care must be available onsite or in close proximity to the housing.

(3) Case management services must be available to all households living in assisted units commencing upon initial occupancy and continuing for at least three months following termination of the program assistance provided to these households.

(4) The assistance provided to individual households shall be for the purpose of assisting them in moving from welfare to work, or to retain employment as determined necessary by the county welfare department and consistent with the services provided by the county's CalWORKs program.

(5) The regulatory agreement entered into between the department and the sponsor shall contain provisions (A) for requiring termination of program assistance consistent with the requirements of the local welfare reform plan and CalWORKs; (B) for expeditiously transferring assistance to a new CalWORKs recipient household, once assistance has been terminated for a household that no longer qualifies for the assistance; (C) for grievance hearings and other resident protections which ensure reasonable security of occupancy; (D) to ensure that if an eligible household's income exceeds the standard pursuant to which it was accepted for tenancy, that fact alone shall neither constitute cause for the eviction nor be a violation of the sponsor's loan agreement; (E) for requiring sponsors to collect and report to the department such information as the department deems necessary for program evaluation purposes; and (F) any other provisions necessary to carry out the purposes and requirements of this chapter.

(6) In evaluating projects for funding and to permit assessment of the efficacy of various housing models, the weighted underwriting and evaluative criteria shall give consideration to ensuring that a variety of project types receive funding.

(7) (A) Community housing developments shall include all of the following features and criteria:

(i) A jobs and economic development component.

(ii) A child care center and play area adequate in size to serve the residents of the development, and may also serve the children of nonresidents of the development.

(iii) A community room, which may also be the child care center.

(iv) Adequate laundry facilities.

(v) Other features as appropriate.

(B) The jobs and economic development component of a community housing development shall consist of a program of job placement and training for residents which shall be implemented commencing upon initial occupancy of the development. The program shall be based on a consideration of existing potential employment at nearby facilities through publicly assisted or other job training or entry level employments programs, as well as employment in the management and operation of the development, including the child care center. The economic and development component shall be subject to the department's approval and shall be memorialized as a rider to the regulatory agreement.

(8) The housing must be on a main transportation system.

(9) Sponsors shall provide evidence that the proposed development is consistent with the Welfare Reform Plan required

pursuant to Section 10531 of the Welfare and Institutions Code, as adopted by the county board of supervisors.

(10) If the CalWORKs program ceases to exist or is modified to the extent that it becomes financially infeasible for developments assisted pursuant to this chapter to comply with the requirements of this chapter, as determined by the department, the department may modify these requirements to the extent necessary to preserve the financial feasibility of the developments.

SEC. 9. Section 50888.5 of the Health and Safety Code is repealed.

SEC. 10. Section 50888.7 of the Health and Safety Code is repealed.

SEC. 11. Section 50889.5 of the Health and Safety Code is repealed.

SEC. 12. Section 50893.5 of the Health and Safety Code is repealed.

SEC. 13. Section 50893.7 of the Health and Safety Code is repealed.

SEC. 14. Section 50893.9 of the Health and Safety Code is repealed.

SEC. 15. Notwithstanding any other provision of law, the funds transferred to the Housing Rehabilitation Loan Fund pursuant to Item 2240-107-0001 of Section 2.00 of the Budget Act of 1999 shall be utilized for the purposes set forth in, and shall be administered through, the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code, as added by this act, subject to the following special conditions:

(a) The funds shall be used for multifamily housing rehabilitation or acquisition, or rehabilitation and acquisition.

(b) First priority for the funds shall be the conservation of affordable housing for existing tenants.

(c) The department may use up to four hundred thousand dollars ($400,000) of the transferred funds for program administration.

CHAPTER 638

An act to add Sections 5096.310, 5096.324, 5096.337, 5096.339, 5096.344, 5096.345, 5096.347, 5096.348, 5096.350, 5096.352, 5096.353, 5096.356, 5096.357, 5096.360, 5096.362, and 5096.368 to the Public Resources Code, relating to resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 5096.310 is added to the Public Resources Code, to read:

5096.310. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection (Villaraigosa-Keeley Act) Bond Fund, which is hereby created. Unless otherwise specified and except as provided in subdivision (m), the money in the fund shall be available for appropriation by the Legislature, in the manner set forth in this chapter, only for parks and resources improvement, in accordance with the following schedule:

(a) The sum of five hundred two million seven hundred fifty thousand dollars ($502,750,000) to the department for the following purposes:

(1) To rehabilitate, restore, and improve units of the state park system that will ensure that state park system lands and facilities will remain open and accessible for public use.

(2) To develop, improve, rehabilitate, restore, enhance, and protect facilities and trails at existing units of the state park system that will provide for optimal recreational and educational use, activities, improved access and safety, and the acquisition from a willing seller of inholdings and adjacent lands. Adjacent lands are lands contiguous to, or in the immediate vicinity of, existing state park system lands and that directly benefit an existing state park system unit.

(3) For stewardship of the public investment in the preservation of the critical natural heritage and scenic features, and cultural heritage stewardship projects that will preserve vanishing remnants of California's landscape, and protect and promote a greater understanding of California's past, and the planning necessary to implement those efforts.

(4) For facilities and improvements to enhance volunteer participation in the state park system.

(5) To develop, improve, and expand interpretive facilities at units of the state park system, including educational exhibits and visitor orientation centers.

(6) To rehabilitate and repair aging facilities at winter recreation facilities pursuant to the Sno-Park program, as provided for in Chapter 1.27 (commencing with Section 5091.01), that provide for improved public safety.

(7) For projects that improve air quality related to the state park system, including, but not limited to, the purchase of low-emission or advanced technology vehicles and equipment and clean fuel distribution facilities that will avoid or reduce air emissions at state park facilities.

(b) The sum of eighteen million dollars ($18,000,000) to the department to undertake stewardship projects, including cultural

resources stewardship and natural resources stewardship projects, that will restore and protect the natural treasures of the state park system, preserve vanishing remnants of California's landscape, and protect and promote a greater understanding of California's past.

(c) The sum of four million dollars ($4,000,000) to the department for facilities and improvements to enhance volunteer participation in the state park system.

(d) The sum of twenty million dollars ($20,000,000) to the department for grants to local agencies administering units of the state park system under an operating agreement with the department, for the development, improvement, rehabilitation, restoration, enhancement, protection, and interpretation of lands and facilities of, and improved access to, those locally operated units.

(e) The sum of ten million dollars ($10,000,000) to the department for purposes consistent with Section 5079.10, for competitive grants, in accordance with Section 5096.335.

(f) The sum of three hundred eighty-eight million dollars ($388,000,000) to the department for grants, in accordance with Sections 5096.332, 5096.333, and 5096.336, on the basis of population, for the acquisition, development, improvement, rehabilitation, restoration, enhancement, and interpretation of local park and recreational lands and facilities, including renovation of recreational facilities conveyed to local agencies resulting from the downsizing or decommissioning of federal military installations.

(g) The sum of two hundred million dollars ($200,000,000) to the department for grants to cities, counties, and districts for the acquisition, development, rehabilitation, and restoration of park and recreation areas and facilities pursuant to the Roberti-Z'berg-Harris Urban Open-Space and Recreational Program Act (Chapter 3.2 (commencing with Section 5620)).

(h) The sum of ten million dollars ($10,000,000) to the department for grants, in accordance with Section 5096.337, for the improvement or acquisition and restoration of riparian habitat, riverine aquatic habitat, and other lands in close proximity to rivers and streams for river and stream trail projects undertaken in accordance with Section 78682.2 of the Water Code, and for purposes of Section 7048 of the Water Code.

(i) The sum of ten million dollars ($10,000,000) to the department for grants, in accordance with Section 5096.337, for the development, improvement, rehabilitation, restoration, enhancement, and interpretation of nonmotorized trails for the purpose of increasing public access to, and enjoyment of, public areas for increased recreational opportunities. Not less than one million five hundred thousand dollars ($1,500,000) of this amount shall be allocated toward the completion of a project that links existing bicycle and pedestrian trail systems to major urban public transportation systems, to promote increased recreational opportunities and nonmotorized commuter usage in the City of Whittier. Of this amount, no less than

two hundred seventy-five thousand dollars ($275,000) shall be allocated to the East Bay Regional Park District toward the completion of the Iron Horse Trail. Of this amount, not less than one million dollars ($1,000,000) shall be allocated to a regional park district for the completion of a bike trial in the City of Concord.

(j) The sum of one hundred million dollars ($100,000,000) to the department for grants to public agencies and nonprofit organizations for park, youth center, and environmental enhancement projects that benefit youth in areas that lack safe neighborhood parks, open space, and natural areas, and that have significant poverty.

(k) The sum of two million five hundred thousand dollars ($2,500,000) to the California Conservation Corps to complete capital outlay and resource conservation projects and administrative costs allocable to the bond funded projects.

(*l*) The sum of eighty-six million five hundred thousand dollars ($86,500,000) to the department for the following purposes:

(1) The sum of seventy-one million five hundred thousand dollars ($71,500,000) for grants, in accordance with Sections 5096.339 and 5096.340, for urban recreational and cultural centers, including, but not limited to, zoos, museums, aquariums, and facilities for wildlife, environmental, or natural science aquatic education or projects that combine curation of archaeological, paleontological, and historic resources with education and basic and applied research, and that emphasize specimens of California's extinct prehistoric plants and animals.

(2) The sum of fifteen million dollars ($15,000,000) for grants for regional youth soccer and baseball facilities operated by nonprofit organizations. Priority shall be given to those grant projects that utilize existing school facilities or recreation facilities and serve disadvantaged youth.

(m) Notwithstanding Section 13340 of the Government Code, the sum of two hundred sixty-five million five hundred thousand dollars ($265,500,000) is, except as provided in Section 5096.350, hereby continuously appropriated to the Wildlife Conservation Board, without regard to fiscal years, in accordance with Section 5096.350.

(n) The sum of fifty million dollars ($50,000,000) to the California Tahoe Conservancy, in accordance with Section 5096.351.

(o) The sum of two hundred twenty million four hundred thousand dollars ($220,400,000) to the State Coastal Conservancy, in accordance with Section 5096.352.

(p) The sum of thirty-five million dollars ($35,000,000) to the Santa Monica Mountains Conservancy, in accordance with Section 5096.353.

(q) The sum of five million dollars ($5,000,000) to the Coachella Valley Mountains Conservancy, in accordance with Section 5096.354.

(r) The sum of fifteen million dollars ($15,000,000) to the San Joaquin River Conservancy, in accordance with Section 5096.355.

(s) The sum of twelve million five hundred thousand dollars ($12,500,000) to the California Conservation Corps for grants for the certified local community conservation corps program to complete capital outlay and resource conservation projects.

(t) The sum of twenty-five million dollars ($25,000,000) to the Department of Conservation in accordance with Section 5096.356.

(u) The sum of ten million dollars ($10,000,000) to the Department of Forestry and Fire Protection for urban forestry programs in accordance with Section 4799.12. The grants made pursuant to this subdivision shall be for costs associated with the purchase and planting of trees, and up to three years of care which ensures the long-term viability of those trees.

(v) Notwithstanding Section 711 of the Fish and Game Code, the sum of twelve million dollars ($12,000,000) to the Department of Fish and Game for the following purposes:

(1) The sum of five million dollars ($5,000,000) for expenditure in accordance with subdivision (a) of Section 5096.357.

(2) The sum of five million dollars ($5,000,000) for expenditure in accordance with subdivision (b) of Section 5096.357.

(3) The sum of two million dollars ($2,000,000) to remove nonnative vegetation harmful to ecological reserves in San Diego County.

(w) The sum of thirty million dollars ($30,000,000) shall be available for purposes of Chapter 4.5 (commencing with Section 31160) of Division 21. Two hundred fifty thousand dollars ($250,000) shall be allocated to Mount Diablo State Park.

(x) The sum of seven million dollars ($7,000,000) to the California Integrated Waste Management Board for grants to local agencies to assist them in meeting state and federal accessibility standards relating to public playgrounds if the local agency guarantees that 50 percent of the grant funds will be used for the improvement or replacement of playground equipment or facilities through the use of recycled materials and that matching funds in an amount equal to not less than 50 percent of the total amount of those grant funds will be provided through either public or private funds or in-kind contributions. The board may reduce this matching fund requirement to not less than 25 percent if it determines that the 50-percent requirement would impose an extreme financial hardship on the local agency applying for the grant. The board may expend the funds allocated pursuant to this subdivision, upon appropriation by the Legislature, for the purposes specified herein.

(y) The sum of fifteen million dollars ($15,000,000) to a city for rehabilitation, restoration, or enhancement to a city park that is over 1,000 acres that serves an urban area of over 750,000 population in northern California and that provides recreational, cultural, and scientific resources.

(z) (1) The sum of six million two hundred fifty thousand dollars ($6,250,000) to the secretary to administer grants to the Sierra Nevada-Cascade Program, in accordance with Section 5096.347.

(2) The sum of thirty-three million five hundred thousand dollars ($33,500,000) to the secretary to administer a river parkway and restoration program to assist local agencies and other districts to plan, create, and conserve river parkways. The secretary shall make funds available in accordance with Sections 7048 and 78682.2 of the Water Code, and any other applicable authority, for the following purposes:

(A) Twenty-five million dollars ($25,000,000) for the acquisition or restoration of public lands within the Los Angeles River Watershed, the San Gabriel River Watershed, and the San Gabriel Mountains and to provide open space, nonmotorized trails, bike paths, and other low-impact recreational uses and wildlife and habitat restoration and protection. Ten million dollars ($10,000,000) shall be allocated for the Los Angeles River Watershed, and fifteen million dollars ($15,000,000) shall be allocated for the San Gabriel River Watershed and the San Gabriel Mountains and lower Los Angeles River.

(B) Two million five hundred thousand dollars ($2,500,000) for river parkway projects along the Kern River between the mouth of the Kern Canyon and I-5.

(C) One million dollars ($1,000,000) for land acquisition in the Santa Clarita Watershed.

(D) Three million dollars ($3,000,000) for watershed, riparian, and wetlands restoration along the Sacramento River in Yolo, Glenn, and Colusa Counties.

(E) Two million dollars ($2,000,000) for the construction of a visitor center at a state recreation area encompassing a body of water along the American River.

(3) The sum of two million dollars ($2,000,000) to the secretary for resource conservation and urban water recycling that addresses multicounty regional recreational needs, provides habitat restoration, and enjoys joint sponsorship by multiple local agencies and nonprofit organizations in the County of Sonoma.

(4) The sum of one million one hundred thousand dollars ($1,100,000) to the secretary, one hundred thousand dollars ($100,000) of which shall be made available to fund a community center in San Benito County, one hundred thousand dollars ($100,000) of which shall be made available to fund a veterans park in San Benito County, five hundred thousand dollars ($500,000) of which shall be made available to fund a community center in the City of Galt, and four hundred thousand dollars ($400,000) of which shall be made available to fund a community center in the City of Gilroy.

(5) The sum of two million dollars ($2,000,000) to the secretary for Camp Arroyo in Alameda County.

(6) The sum of one million dollars ($1,000,000) to the secretary to construct a rehabilitation center for injured endangered and

indigenous wild animals at the Wildhaven Center in the San Bernardino Mountains.

SEC. 2. Section 5096.324 is added to the Public Resources Code, to read:

5096.324. Funds appropriated to the department pursuant to subdivision (a) of Section 5096.310 shall be made available for the following purposes:

(a) The sum of fifteen million dollars ($15,000,000) to preserve and restore a unit of the state parks system that preserves and restores cultural and historical immigration resources in northern California.

(b) The sum of two million six hundred thousand dollars ($2,600,000) to construct visitor centers in state parks, state recreation areas, and state historic parks. The department shall give priority to projects at Chino Hills State Park and California Citrus State Historic Park.

(c) Up to six hundred fifty thousand dollars ($650,000) for playground equipment upgrades in state recreation areas.

(d) The sum of two hundred fifty thousand dollars ($250,000) for restoration of state reserves that maintain the state flower.

(e) The sum of one million dollars ($1,000,000) for restoration of state beaches.

(f) The sum of five million dollars ($5,000,000) for restoration, study, and curation of paleontological, archaeological, and historical resource site protection. Priority shall be given to projects that combine curation of archaeological, paleontological, and historical resources with education and basic and applied research, and that emphasize specimens of California's extinct prehistoric plants and animals.

(g) The sum of two million seven hundred fifty thousand dollars ($2,750,000), two million five hundred thousand dollars ($2,500,000) of which shall be allocated for capital outlay projects at the Empire Mine State Historic Park, and two hundred fifty thousand dollars ($250,000) of which shall be allocated for Columbia State Historic Park.

(h) The sum of ten million dollars ($10,000,000) for the acquisition of lands from willing sellers of lands that are forested with redwoods or that will enhance the protection or preservation of the redwood forest ecosystem. The department shall give preference to projects where matching contributions in funding from other public agencies, private parties, or nonprofit organizations are available.

(i) Up to five hundred thousand dollars ($500,000) to construct trails, trailheads, and parking, and to provide nonvehicular public access between the Bear and Mendoza Ranch open space and adjacent Henry Coe State Park.

SEC. 3. Section 5096.337 is added to the Public Resources Code, to read:

5096.337. (a) Funds authorized pursuant to subdivisions (h), (i), and (z) of Section 5096.310 shall be available as grants, on a competitive basis, to cities, counties, districts, local agencies formed for park purposes pursuant to a joint powers agreement as defined in subdivision (b), and other districts, as defined in subdivision (c).

(b) For purposes of this section, "local agency" means any local agency formed for park purposes pursuant to a joint powers agreement between two or more local entities, excluding school districts.

(c) For purposes of this section, "other districts" include any district authorized to provide park, recreational, or open-space services, or a combination of those services, except a school district.

SEC. 4. Section 5096.339 is added to the Public Resources Code, to read:

5096.339. (a) Not less than 11 percent of the funds authorized in paragraph (1) of subdivision (*l*) of Section 5096.310 shall be available as grants administered by the department to cities, counties, and nonprofit organizations for the development, rehabilitation, or restoration of facilities accredited by the American Zoo and Aquarium Association (AZA) and operated by cities, counties, and nonprofit organizations, and to cities, counties, and nonprofit organizations for the development, rehabilitation, or restoration of zoos and aquariums operated by cities, counties, and nonprofit organizations, but not yet accredited by the AZA. This program shall be known, and may be cited, as the Dr. Paul Chaffee Zoological Program. Allocation in awarding grants pursuant to this section shall be in accordance with the following schedule:

(1) Individual grants of up to one million dollars ($1,000,000), or an amount to be determined by dividing 95 percent of the total zoo and aquarium funds available pursuant to this subdivision by the number of AZA accredited institutions at the time of enactment of this section, shall be made available to zoos and aquariums that are AZA accredited.

(2) Not less than 20 percent or two million dollars ($2,000,000), whichever is greater, of the funds available pursuant to this subdivision shall be reserved for institutions with annual operating budgets of less than one million dollars ($1,000,000).

(3) Not more than 5 percent of the total funds available pursuant to this subdivision, shall be made available as grants to zoos and aquariums that have initiated the AZA accreditation process but are not yet accredited at the time of the enactment of this section. Grants awarded under this subdivision shall be dedicated to projects which will enhance the institution's ability to meet standards of AZA accreditation.

(4) Not more than 5 percent of the total funds available pursuant to this subdivision shall be granted for publicly owned or nonprofit zoos and wildlife centers that may not be accredited, but that care for animals that have been injured or abandoned and that cannot be

returned to the wild. To be eligible for this portion of those funds, applicants shall demonstrate that they serve a regional area, foster the environmental relationships of animals within that region, and operate outreach and onsite programs communicating those objectives to the public.

(b) At least ten million dollars ($10,000,000) of the funds allocate pursuant to paragraph (1) of subdivision (*l*) of Section 5096.310 shall be provided to the California Science Center for implementation of the Exposition Master Plan. Three million dollars ($3,000,000) of this amount shall be made available to the California African-American Museum for completion of its education and visitor facility in Exposition Park and seven million dollars ($7,000,000) of this amount shall be made available for the California Science Center School.

(c) Not less than five hundred thousand dollars ($500,000) of the funds allocated pursuant to paragraph (1) of subdivision (*l*) of Section 5096.310 shall be available as grants for facilities for education programs focused on the National Marine Sanctuaries along California's coast.

(d) Not less than forty-four million seven hundred fifty thousand dollars ($44,750,000) of the funds allocated pursuant to paragraph (1) of subdivision (*l*) of Section 5096.310 shall be made available for the following purposes:

(1) At least ten million dollars ($10,000,000) shall be provided to the Discovery Science Center in Santa Ana for capital improvement.

(2) At least ten million dollars ($10,000,000) shall be provided to the California Academy of the Sciences for capital improvement projects.

(3) At least two million dollars ($2,000,000) shall be provided toward the creation of the Delta Science Center to carry out significant marine and delta aquatic education and interpretive programs.

(4) At least fifteen million dollars ($15,000,000) shall be provided to the Alliance of Redding Museums for capital improvements for the Turtle Bay-Museums and the Arboretum on the River.

(5) An individual grant of four million two hundred fifty thousand dollars ($4,250,000) shall be made to the California Division of Fairs and Expositions of the Department of Food and Agriculture for capital outlay to assist with an approved contract entered into on or before January 1, 2000, for an exposition or state fair relocation in any county with a population greater than 5,000,000.

(6) The sum of three million five hundred thousand dollars ($3,500,000) to enhance the two-acre historical exhibit at the Kern County Museum.

SEC. 5. Section 5096.344 is added to the Public Resources Code, to read:

5096.344. All grants, gifts, devises, or bequests to the state, that are conditioned upon being used for park, conservation, recreational, agricultural, or other such purposes, may be accepted and received

on behalf of the state by the appropriate departmental director, with the approval of the Director of Finance, and those grants, gifts, devises, or bequests may be available, upon appropriation by the Legislature, for expenditure for the purposes specified in Section 5096.310.

SEC. 6. Section 5096.345 is added to the Public Resources Code, to read:

5096.345. Except for funds continuously appropriated by this chapter, all appropriations of funds pursuant to Section 5096.310 for purposes of the program shall be included in the Budget Bill for the 2001–02 fiscal year, and each succeeding fiscal year, for consideration by the Legislature, and shall bear the label "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection (Villaraigosa-Keeley Act) Fund." The Budget Bill section shall contain separate items for each project, each class of project, or each element of the program for which an appropriation is made.

SEC. 7. Section 5096.347 is added to the Public Resources Code, to read:

5096.347. (a) The Legislature hereby finds and declares that the Sierra Nevada and Cascade Mountain Region constitutes a unique and important environmental, anthropological, cultural, scientific, educational, recreational, scenic, water, watershed, and wildlife resource that should be held in trust for the enjoyment of, and appreciated by, present and future generations.

(b) The secretary shall administer grants to the Sierra Nevada-Cascade Program to assist local governments, agencies, districts, and nonprofit organizations working in collaboration with those local governments, agencies, and districts to plan, create, and conserve the Sierra-Cascade natural ecosystem. The secretary shall make funds available on a competitive basis for all of the following activities:

(1) The acquisition and restoration of riparian habitat in accordance with Sections 7048 and 78682.2 of the Water Code to improve water quality, and to protect, restore, or rehabilitate watersheds, streams wetlands, or other aquatic habitat.

(2) Capital improvement projects that provide park and recreational opportunities.

(3) Access to trails and public lands, in accordance with Article 6 (commencing with Section 5070) of Chapter 1 of Division 5.

(4) Acquisition of park lands or recreational facilities.

(c) The secretary shall give priority to fund up to two million dollars ($2,000,000) for Commons Beach improvements on properties owned or administered by local agencies in the Lake Tahoe area, that will provide improved lake access, bicycle and pedestrian trail linkages, and interpretative facilities.

(d) The secretary may provide the following capital outlay grants:

(1) Five hundred thousand dollars ($500,000) for capital outlay to an incorporated city all or part of the territory of which is located

within five miles of the boundary line between San Joaquin County and Sacramento County.

(2) Two hundred fifty thousand dollars ($250,000) to the department for the renovation of a state historical point of interest near the intersection of Jack Tone Road and State Highway 88.

(e) For the purposes of this article, the Sierra Nevada-Cascade Mountain Region includes those portions of Fresno County, Kern County, Stanislaus County, and Tulare County, and counties with populations of less than 250,000 as of the 1990 United States Census, that are located in the mountains, the foothills, and the area adjacent to the geologic formations of the Sierra Nevada and Cascade mountain ranges.

SEC. 8. Section 5096.348 is added to the Public Resources Code, to read:

5096.348. (a) Notwithstanding any other provision of this chapter, funds allocated pursuant to subdivision (j) of Section 5096.310 shall be allocated, upon appropriation by the Legislature, for parks, park facilities, or environmental youth service centers that are within the immediate proximity of a neighborhood that has been identified by the department as having a critical lack of park or open-space lands or deteriorated park facilities, that are in an area of significant poverty and unemployment, and that have a shortage of services for youth. Priority shall be given to capital projects that employ neighborhood residents and at-risk youth.

(b) (1) Fifty percent of the funds allocated pursuant to subdivision (j) of Section 5096.310 shall be made available on a competitive basis to heavily urbanized counties and cities or to nonprofit organizations or park districts in those counties and cities, in compliance with subdivision (a) and the matching requirements of the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620).

(2) No more than 10 percent of the amounts made available pursuant to paragraph (1) shall be allocated to fund grants pursuant to Chapter 2.5 (commencing with Section 990) of Part 1 of Division 2 of the Welfare and Institutions Code, at least 50 percent of which shall be granted to youth service organizations eligible for tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code that are chartered by a national youth service organization.

SEC. 9. Section 5096.350 is added to the Public Resources Code, to read:

5096.350. (a) Funds appropriated pursuant to subdivision (m) of Section 5096.310 shall be available for expenditure by the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration, and protection of real property benefiting fish and wildlife, for the acquisition, restoration, or protection of habitat that promotes recovery of threatened, endangered, or fully protected species, maintains the genetic integrity of wildlife populations, and

serves as corridors linking otherwise separate habitat to prevent habitat fragmentation, and for grants and related state administrative costs pursuant to the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code), for the following purposes:

(1) Ten million dollars ($10,000,000) for the acquisition or restoration of wetland habitat, as follows:

(A) Five million dollars ($5,000,000) for the acquisition, preservation, restoration, and establishment, or any combination thereof, of habitat for waterfowl or other wetlands-associated wildlife, as provided for in the Central Valley Habitat Joint Venture Component of the North American Waterfowl Management Plan and the Inland Wetlands Conservation Program, notwithstanding Section 711 of the Fish and Game Code. Preference shall be given to projects involving the acquisition of perpetual conservation easements; habitat development projects on lands which will be managed primarily as waterfowl habitat in perpetuity; waterfowl habitat development projects on agricultural lands; the reduction of fishery impacts resulting from supply diversions that have a direct benefit to wetlands and waterfowl habitat; or programs to establish permanent buffer areas, including, but not limited to, agricultural lands that are necessary to preserve the acreage and habitat values of existing wetlands.

(B) Five million dollars ($5,000,000) for the acquisition, development, restoration, and protection of wetlands and adjacent lands, or any combination thereof, located outside the Sacramento-San Joaquin Valley.

(2) Ten million dollars ($10,000,000) for the development, acquisition from a willing seller, or restoration of riparian habitat and watershed conservation programs.

(3) Forty-five million dollars ($45,000,000), upon appropriation by the Legislature, for the restoration, or acquisition from a willing seller, of habitat for threatened and endangered species or for the purpose of promoting the recovery of those species. Five million dollars ($5,000,000) of that amount shall be for the acquisition of property along the central coast containing coastal terrace prairie, federally listed spineflower, state listed San Francisco popcorn flower, and candidates for federal listing including ohlone tiger beetle and opler's longhorned moth. No funds may be expended pursuant to this paragraph for the acquisition of real property or other actions taken pursuant to Chapter 10 (commencing with Section 2800) of the Fish and Game Code.

(4) Thirteen million dollars ($13,000,000) for the acquisition from a willing seller, or restoration of forest lands, including, but not limited to, ancient redwoods and oak woodlands. Not more than five million dollars ($5,000,000) of this amount shall be expended on the federal Legacy Forest Program (16 U.S.C. Sec. 2103) to meet federal matching requirements and not less than five million dollars

($5,000,000) of this amount shall be allocated for the preservation of oak woodlands. Not more than five million dollars ($5,000,000) of this amount shall be expended on the federal Legacy Forest Program (16 U.S.C. Sec. 2103) to meet federal matching requirements and not less than five million dollars ($5,000,000) of this amount shall be allocated for the preservation of oak woodlands.

(5) Eighty-two million five hundred thousand dollars ($82,500,000), upon appropriation by the Legislature, to match funds contributed by federal or local agencies or nonprofit organizations for the acquisition, restoration, or protection of habitat or habitat corridors that promote the recovery of threatened, endangered, or fully protected species. Projects funded pursuant to this paragraph may include restoration projects authorized pursuant to Public Law 105-372, the Salton Sea Reclamation Act of 1998. The board shall require matching contributions of funds, real property, or other resources from other public agencies, private parties, or nonprofit organizations, at a level designed to obtain the maximum conservation benefits to wildlife and wildlife habitat. No funds may be expended pursuant to this paragraph for the acquisition of real property or other actions taken pursuant to Chapter 10 (commencing with Section 2800) of the Fish and Game Code.

(6) One hundred million dollars ($100,000,000), upon appropriation by the Legislature, for the purpose of funding the acquisition of real property subject to a natural community conservation plan adopted pursuant to Chapter 10 (commencing with Section 2800) of the Fish and Game Code, if the acquisition of the real property is conducted in conjunction with a natural community conservation plan approved by the Department of Fish and Game prior to January 1, 1999, or if the acquisition is approved by statute.

(7) Five million dollars ($5,000,000) for environmental restoration projects for the following purposes approved pursuant to the Salton Sea Restoration Project authorized by Public Law 105-372, the Salton Sea Reclamation Act of 1998, and identified in the Final Environmental Impact Statement of the Salton Sea Restoration Project:

(A) Reduce and stabilize the overall salinity of the Salton Sea.

(B) Stabilize the surface elevation of the Salton Sea.

(C) Reclaim, in the long term, healthy fish and wildlife resources and their habitats.

(D) Enhance the potential for recreational uses of the Salton Sea.

(b) Not more than 5 percent of the funds authorized for expenditure by this section may be used for public access and wildlife-oriented public use projects.

SEC. 10. Section 5096.352 is added to the Public Resources Code, to read:

5096.352. Funds allocated pursuant to subdivision (o) of Section 5096.310 shall be available for expenditure by the State Coastal

Conservancy pursuant to Division 21 (commencing with Section 31000) for the acquisition from a willing seller, preservation, restoration, and enhancement of real property or an interest in real property in coastal areas and watersheds within its jurisdiction and the development of public use facilities in those areas in accordance with the following schedule:

(a) Twenty-five million dollars ($25,000,000) for projects funded pursuant to the San Francisco Bay Area Conservancy Program established pursuant to Chapter 4.5 (commencing with Section 31160) of Division 21.

(b) (1) Twenty-five million dollars ($25,000,000) shall be made available to the Santa Monica Bay Restoration Project to fund grants to public entities and nonprofit organizations to implement storm water and urban runoff pollution prevention programs, habitat restoration, and other priority actions specified in the Santa Monica Restoration Plan. The Santa Monica Bay Watershed Council shall determine project eligibility and establish grant priority.

(2) The Santa Monica Bay Watershed Council or the State Coastal Conservancy may require the grant recipient to provide a portion of matching funds for any funding received. The council or the state conservancy may use the funds as matching funds for federal or other grant funding.

(c) Sixty-four million two hundred thousand dollars ($64,200,000) of the funds available may be expended by the State Coastal Conservancy directly or as grants to government entities and nonprofit organizations for the purposes of Division 21 (commencing with Section 31000), and for the following and related purposes, including, but not limited to, the acquisition, enhancement, restoration, protection, and development of coastal resources, beaches, waterfronts, and public accessways in accordance with the following schedule:

(1) An amount not to exceed three million dollars ($3,000,000) may be expended on regional approaches to reduce beach erosion. Up to thirteen million dollars ($13,000,000) shall be made available for the restoration and protection of the Upper Newport Bay Ecological Reserve.

(2) At least fifteen million dollars ($15,000,000) shall be expended in coastal areas north of the Gualala River.

(3) At least twenty-five million dollars ($25,000,000) shall be expended within Santa Cruz, Monterey, San Luis Obispo, or Santa Barbara Counties. One million dollars ($1,000,000) shall be allocated to the City of Monterey to fund public access and open space along the waterfront for the Window on the Bay.

(4) At least five million dollars ($5,000,000) shall be expended on completion of the Coastal Trail.

(5) Two million dollars ($2,000,000) shall be dedicated to projects for the Guadalupe River Trail and the San Francisco Bay Ridge Trail.

(d) Twenty-two million dollars ($22,000,000) may be expended by the State Coastal Conservancy directly or as grants to government entities and nonprofit organizations consistent with Division 21 (commencing with Section 31000), and for administrative costs in connection therewith, for the acquisition, development, rehabilitation, restoration, enhancement, and protection of real property, or other actions that benefit fish and wildlife. At least ten million dollars ($10,000,000) of those funds shall be expended in coastal areas north of the Gualala River. Eight hundred thousand dollars ($800,000) shall be spent to restore the arroyo chub, partially armored stickleback, and southern steelhead fisheries to their native creeks of San Mateo Creek, and its tributary Devil Canyon Creek, and San Onofre Creek located in San Diego County.

(e) Twenty-five million dollars ($25,000,000) shall be available, upon appropriation by the Legislature, to the State Coastal Conservancy and the Department of Fish and Game for direct expenditure and for grants to public agencies and nonprofit organizations to protect, restore, acquire, and enhance habitat for salmon. These funds may be used to match federal funding available for those purposes.

(f) Twenty-five million dollars ($25,000,000) of the funds shall be allocated to acquire, protect, and restore wetlands projects that are a minimum of 400 acres in size in any county with a population greater than 5,000,000.

(g) Twelve million five hundred thousand dollars ($12,500,000) shall be allocated to acquire land needed to connect important coastal watershed and scenic areas in the Laguna Coast Wilderness Park.

SEC. 11. Section 5096.353 is added to the Public Resources Code, to read:

5096.353. Funds allocated pursuant to subdivision (p) of Section 5096.310 shall be available to the Santa Monica Mountains Conservancy for capital outlay and grants for the acquisition from a willing seller, enhancement, and restoration of natural lands, improvement of public recreation facilities, and for grants to local agencies and nonprofit organizations to increase access to parks and recreational opportunities for underserved urban communities, in accordance with the following schedule:

Thirty-five million dollars ($35,000,000) to acquire, improve, or restore park, wildlife, or natural areas, including areas near or adjacent to units of the state park system wherever such units may be situated within a local jurisdiction within the Santa Monica Mountains Zone or Rim of the Valley Trail Corridor.

SEC. 12. Section 5096.356 is added to the Public Resources Code, to read:

5096.356. (a) Funds allocated pursuant to subdivision (t) of Section 5096.310 shall be available to the Department of Conservation for grants, on a competitive basis, to state and local

agencies and nonprofit organizations for farmland protection and administration of the Agricultural Land Stewardship Program Act of 1995 (Division 10.2 (commencing with Section 10200)), or its successor program. This purpose shall include, but not be limited to, the placement of improvements and acquisition of agricultural conservation easements and other interests in land pursuant to the Agricultural Land Stewardship Program.

(b) At least 20 percent of the funds allocated pursuant to subdivision (t) of Section 5096.310 shall be available for projects that preserve agricultural lands and protect water quality in the counties that serve the San Pablo Bay.

SEC. 13. Section 5096.357 is added to the Public Resources Code, to read:

5096.357. (a) Funds allocated pursuant to paragraph (1) of subdivision (v) of Section 5096.310 shall be available to the Department of Fish and Game for the development, enhancement, restoration, and preservation of land pursuant to Sections 1580 and 10503 of, and subdivision (b) of Section 1525 of, the Fish and Game Code. The provision of these funds shall be in accordance with an expenditure plan developed by the Department of Fish and Game and approved by the Department of Finance.

(b) Funds allocated pursuant to paragraph (2) of subdivision (v) of Section 5096.310 shall be made available to the Department of Fish and Game for the exclusive purpose of acquiring habitat preservation and enhancement agreements on private wetlands pursuant to the California Waterfowl Habitat Program—Phase II and administrative costs incurred in connection therewith. Expenditure of those funds shall be consistent with the purposes identified in Section 3702 of the Fish and Game Code.

SEC. 14. Section 5096.360 is added to the Public Resources Code, to read:

5096.360. Bonds in the total amount of two billion one hundred million dollars ($2,100,000,000), not including the amount of any refunding bonds issued in accordance with Section 5096.370, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes set forth in Section 5096.310 and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable. Pursuant to this section, the Treasurer shall sell the bonds authorized by the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection (the Villaraigosa-Keeley Act) Finance Committee created pursuant to subdivision (a) of Section 5096.362 at any different times that are

necessary to service expenditures appropriated pursuant to this chapter.

SEC. 15. Section 5096.362 is added to the Public Resources Code, to read:

5096.362. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection (Villaraigosa-Keeley Act) Finance Committee is hereby created. For purposes of this chapter, the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection (Villaraigosa-Keeley Act) Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the secretary is designated the "board."

SEC. 16. Section 5096.368 is added to the Public Resources Code, to read:

5096.368. The secretary may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, including other authorized forms of interim financing that include, but are not limited to, commercial paper, in accordance with Section 16312 of the Government Code, for purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The secretary shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

SEC. 17. (a) This act shall become operative only if Assembly Bill 18 of the 1999–2000 Regular Session is chaptered.

(b) If both this bill and Assembly Bill 18 of the 1999–2000 Regular Session are chaptered, and this bill is chaptered after Assembly Bill 18, Sections 5096.310, 5096.324, 5096.337, 5096.339,5096.344, 5096.345, 5096.347, 5096.348, 5096.350, 596.352, 5096.353, 5096.356, 5096.357, 5096.360, 5096.362, and 5096.368, as added to the Public Resources Code by this bill, shall prevail over and supersede those sections of the same number as added to the Public Resources Code by Assembly Bill 18. The Secretary of State shall submit the sections added to the Public Resources Code by this bill to the voters at the March 7, 2000, statewide general election as part of the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act), in place of the same numbered sections as added to the Public Resources Code by Assembly Bill 18.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions of this bill may be incorporated into Section 1 of Assembly Bill 18 of the 1999–2000 Regular Session, which would enact the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act), and be submitted for voter approval at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 639

An act to amend Section 31164 of the Public Resources Code, relating to coastal resources, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 31164 of the Public Resources Code is amended to read:

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 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. Notwithstanding Section 1334 of the Government Code, the funds in this subaccount are continuously appropriated, without regard to fiscal year, to the conservancy for expenditures for the purposes of this chapter.

(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 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 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 640

An act to add Section 41865.5 to the Health and Safety Code, relating to air quality, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 41865.5 is added to the Health and Safety Code, to read:

41865.5. Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2001, the State Air Resources Board, in consultation with the Department of Food and Agriculture, and in cooperation with the State Energy Resources Conservation and Development Commission and the California Integrated Waste Management Board, shall prepare and submit to the Legislature recommendations for ensuring consistency and predictability in the supply of rice straw for cost-effective uses, including, but not limited to, recommendations for methods of harvesting, storing, and distributing rice straw for off-field uses. Off-field uses may include, but are not limited to, the production of energy and fuels, construction materials, pulp and paper, and livestock feed.

SEC. 2. Notwithstanding subdivision (a) of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998) or any other provision of law, the funds appropriated for support of the State Air Resources Board

pursuant to Item 3900-001-0489 of Section 2.00 of the Budget Act of 1998 that were not encumbered or otherwise expended during the 1998–99 fiscal year shall be available for encumbrance by the state board during the 1999–2000 fiscal year for purposes of the rice straw demonstration project established by Chapter 4.5 (commencing with Section 39750) of Part 2 of Division 26 of the Health and Safety Code.

CHAPTER 641

An act to amend Section 77212.5 of, to add Sections 69915 and 72114.2 to, to repeal Sections 26603.1, 26666, 26669, 26670, 72114, and 73803 of, and to repeal Article 25.5 (commencing with Section 74361) of Chapter 10 of Title 8 of, the Government Code, relating to court services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 26603.1 of the Government Code is repealed.

SEC. 2. Section 26666 of the Government Code is repealed.

SEC. 3. Section 26669 of the Government Code is repealed.

SEC. 4. Section 26670 of the Government Code is repealed.

SEC. 5. Section 69915 is added to the Government Code, to read:

69915. (a) Notwithstanding any other provision of law, and except as provided in subdivision (j), the Board of Supervisors of each of the Counties of Merced, Orange, and Shasta may commence public hearings regarding the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. Within 30 days of the commencement of public hearings as authorized by this section, the board shall make a final determination as to the most cost-effective and most efficient manner of providing court-related services.

(b) Concurrently, an election may be conducted among all of the judges of the consolidated courts of the county to provide an advisory recommendation to the board of supervisors on the abolition of the marshal's office and the transferring of court-related services provided by the marshal within the county to the sheriff's department. The outcome shall be determined by a simple majority of votes cast. The vote of the judges shall then be forwarded to the board of supervisors prior to the close of the public hearing, and the board of supervisors shall take into advisement the recommendation of the judges provided by the election report.

(c) The determination of the abolishment of the marshal's office or the transferring of the duties of the marshal shall occur pursuant to the board's determination, and shall be concluded no later than July 1, 2000.

(d) The courtroom assignment of bailiffs after abolition of the marshal's office and the consolidation pursuant to this section shall be determined by a two-member committee comprised of the presiding judge of the consolidated court and the sheriff, or their designees. Any new bailiff assignments shall be made only after consultation with the affected judge or commissioner in whose courtroom a new assignment is planned.

It is the intent of the Legislature, in enacting this subdivision, to ensure that courtroom assignments are made in a manner that best ensures that the interests of the affected judge or commissioner and bailiff are protected.

(e) Notwithstanding any other provision of law, the marshal and all personnel of the marshal's office affected by the abolition of the marshal's office in the county shall become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits, and, except as may be necessary for the operation of the agency under which court-related services and the service of civil and criminal process are consolidated, they shall not be involuntarily transferred out of the consolidated office for a period of five years following the consolidation.

(f) Personnel of the abolished marshal's office shall be entitled to request an assignment to another division within the sheriff's department, and that request shall be reviewed the same as any other request from within the department. Persons who accept a voluntary transfer from the court services/civil division shall waive their rights pursuant to subdivision (e).

(g) Permanent employees of the marshal's office on the effective date of the abolition of the marshal's office pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the marshal's office on the effective date of a consolidation pursuant to this section shall retain their probationary status and rights and shall not be deemed to have transferred so as to require serving a new probationary period.

(h) All county service or service by employees of the marshal's office on the effective date of a consolidation pursuant to this section shall be counted toward seniority in the consolidated office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(i) No employee of the marshal's office on the effective date of a consolidation pursuant to this section shall lose peace officer status, or otherwise be adversely affected as a result of the abolition and merger of personnel into the sheriff's department.

(j) Subdivisions (d) to (i), inclusive, shall not apply to the County of Orange. Prior to a determination by the Orange County Board of Supervisors to abolish the marshal's office and to transfer duties of the marshal to the sheriff, the board of supervisors shall do both of the following:

(1) Meet and confer with affected employee bargaining representatives with respect to matters within the scope of representation that would be affected by a determination to abolish the marshal's office and to transfer duties of the marshal to the sheriff. These matters shall include, but not be limited to, seniority within the merged departments, job qualifications, classification of positions, and intradepartmental transfers. For purposes of carrying out this paragraph, employees of the superior court whose job classification confers safety status shall have the right to representation in accordance with the local employer-employee resolution and to bargain in accordance with Sections 3504, 3505, 3505.1. The board of supervisors is not authorized to abolish the office of the marshal and to transfer duties of the marshal to the sheriff unless a mutual agreement, or mutually agreed to amendment to an existing memorandum of understanding as authorized by this section, is reached with each affected recognized employee organization pursuant to Section 3505.1 and adopted by the board of supervisors.

(2) Confer with the presiding judge of the superior court or his or her designated representative and the sheriff to discuss courthouse security and to establish a mechanism for the assignment of courtroom security personnel. Any agreement made in accordance with this paragraph that commits the superior court to fund services shall be approved by the presiding judge of the superior court or his or her designee. Any agreement entered into pursuant to this paragraph shall become effective only upon a majority vote of the board of supervisors to abolish the office of the marshal or to transfer duties of the marshal to the sheriff.

(k) Upon a determination by the Orange County Board of Supervisors to abolish the office of marshal and to transfer duties of the marshal to the sheriff, Article 17.1 (commencing with Section 74010) of Chapter 10 shall become inoperative.

SEC. 6. Section 72114 of the Government Code is repealed.

SEC. 7. Section 72114.2 is added to the Government Code, to read:

72114.2. (a) Notwithstanding any other provision of law, on or after January 1, 2000, the San Diego County Marshal's Office shall be abolished, and there shall be a bureau in the San Diego County Sheriff's Department under which court security services and the service of civil and criminal process are consolidated.

This bureau's primary function shall be to provide the management with direction, supervision, and personnel for court-related services which include court security, the service of civil and criminal process, public safety protection, judicial

protection, standards of performance, and other matters incidental to the performance of those services.

The sheriff shall be appointing authority for all bureau personnel. The person selected by the sheriff to oversee the operation of court-related services, as described in this section, shall report directly to the sheriff.

Notwithstanding Section 77212, the operational service level for court security services shall be in accordance with agreements between the court and the County of San Diego, which shall not provide a lesser operational service level than may be required by statute.

The operational service level for the service of civil and criminal process and for administrative services shall be in accordance with agreements between the court and the County of San Diego, which shall not provide a lesser operational service level than may be required by statute.

To ensure that the costs assessed to the court for bureau services are in full conformance with the rules of court and statutes concerning trial court funding, the bureau shall be maintained as a separate organizational unit for budgeting and cost accounting purposes.

On a semiannual basis or more often as required by law, the sheriff shall provide the court with an accounting of costs for the bureau, in sufficient detail to allow for an assessment of budget performance, separately, for each function of the bureau. The county auditor and controller shall provide to the court copies of each audit report conducted on the bureau. The court is authorized to conduct, and the sheriff shall cooperate in, independent financial audits of the bureau, either by court staff or by independent auditors.

(b) Notwithstanding any other provision of law, concomitant with the abolition of the marshal's office all personnel of the marshal's office shall become employees of the sheriff's department at their existing or equivalent classification, salaries, and benefits.

The marshal and the assistant marshal or their equivalents, may become employees of the sheriff's department.

(c) Permanent employees of the marshal's office on the effective date of transfer of services from the marshal to the sheriff pursuant to this section shall be deemed to be qualified, and no other qualifications shall be required for employment or retention. Promotions for all personnel from the marshal's office shall be made pursuant to standards set by the sheriff. Probationary employees in the marshal's office on the effective date of the abolition shall not be required to serve a new probationary period. All probationary time served as an employee of the marshal shall be credited toward probationary time required as an employee of the sheriff's department.

(d) All county service and all service with the marshal's office by employees of the marshal's office on the effective date of the abolition

of the marshal's office shall be counted toward seniority in the sheriff's department. All time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(e) As a result of the abolition of the marshal's office, no employee of the marshal's office who becomes an employee of the sheriff's department pursuant to this section shall lose peace officer status or be reduced in rank or salary.

(f) Prior to the abolition of the marshal's office, the court and the County of San Diego shall enter into a contractual agreement regarding the provision of court security services to be provided by the sheriff. Thereafter, from time to time, the court and the County of San Diego may enter into agreements regarding the provision of court security services to be provided by the sheriff.

(g) After abolition of the marshal's office, a two-member committee comprised of a representative of the presiding judge of the superior court and a representative of the sheriff shall make recommendations to the sheriff regarding courtroom assignments of bailiffs. Bailiff assignments and the release from those assignments shall be made only after consultation with, and concurrence of, the affected judge or judicial officer. The presiding judge may provide the concurrence required by this section. This subdivision shall not apply to actions instituted by the sheriff for fitness for duty reasons or discipline that is subject to review by the San Diego County Civil Service Commission.

(h) For a period of five years following the abolition of the marshal's office, personnel of the marshal's office who become employees of the sheriff's department shall not be transferred from the bureau in the sheriff's department under which court-related services and the service of civil and criminal process are consolidated, unless the transfer is voluntary or is the result of fitness for duty reasons or discipline that is subject to review by the San Diego County Civil Service Commission.

(i) Personnel of the marshal's office who become employees of the sheriff's department shall be entitled to request an assignment to another bureau or division within the sheriff's department, and that request shall be reviewed the same as any other request from within the department.

(j) This section shall become operative in the County of San Diego when the board of supervisors adopts a resolution declaring this section operative. The implementation of this section shall be subject to approval and adoption by the board of supervisors of necessary actions, appropriations, and ordinances consistent with the Charter of the County of San Diego and other statutory authority.

SEC. 8. Section 73803 of the Government Code is repealed.

SEC. 9. Article 25.5 (commencing with Section 74361) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 10. Section 77212.5 of the Government Code is amended to read:

77212.5. (a) Commencing on July 1, 1999, and thereafter, the trial courts of each county in which court security services are otherwise required by law to be provided by the sheriff's department shall enter into an agreement with the sheriff's department that was providing court security services as of July 1, 1998, regarding the provision of court security services.

(b) Commencing on July 1, 1999, and thereafter, the trial courts of a county in which court security was provided by the marshal's office as of July 1, 1998, shall, if the marshal's office is abolished, enter into an agreement regarding the provision of court security services with the successor sheriff's department.

SEC. 11. Due to unique facts and circumstances applicable to the Counties of Merced, Orange, San Diego, and Shasta, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessarily applicable to only those counties.

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.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the efficient operation and provision of court-related services in the Counties of Merced, Orange, Orange, San Diego, and Shasta, it is necessary for this act to take effect immediately.

CHAPTER 642

An act to add Section 330.9 to the Penal Code, relating to gambling.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 330.9 of the Penal Code is added to read:

330.9. (a) Notwithstanding Sections 330a, 330b, 330.1 to 330.5, inclusive, or any other provision of law, it shall be lawful for any person to transport and possess any slot machine or device for display

at a trade show, conference, or convention being held within this state.

(b) Subdivision (a) shall apply only if the slot machine or device is adjusted to render the machine or device inoperable.

(c) This section is intended to constitute a state exemption as provided in Section 1172 of Title 15 of the United States Code.

(d) For purposes of this section, "slot machine or device" has the same meaning as "slot machine or device" as defined in Section 330.1, or "gambling device" as defined in paragraph (1) of subsection (a) of Section 1171 of Title 15 of the United States Code.

CHAPTER 643

An act to amend Sections 17521, 17553, 17559, 17561, 17564, 17571, 23713, 25536, 34460, 53601, and 53635 of the Government Code, to amend Sections 17959.3, 42302, and 42302.1 of the Health and Safety Code, and to amend Sections 97.2 and 7285.5 of the Revenue and Taxation Code, relating to government.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known, and may be cited, as the Local Government Omnibus Act of 1999.

SEC. 2. Section 17521 of the Government Code is amended to read:

17521. "Test claim" means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.

SEC. 3. Section 17553 of the Government Code is amended to read:

17553. (a) The commission shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on those claims. The hearing procedure shall provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, and any other interested person. The procedures shall ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission. Hearing of a claim may be postponed at the request of the claimant, without prejudice, until the next scheduled hearing.

(b) The procedures adopted by the commission pursuant to subdivision (a) shall include the following:

(1) Provisions for acceptance of more than one claim on the same statute or executive order relating to the same statute or executive order filed with the commission, and, absent agreement by the test claimants to the contrary, to designate the first to file as the lead test claimant.

(2) Provisions for consolidating test claims relating to the same statute or executive order filed with the commission with time limits that do not exceed 90 days from the initial filing for consolidating the test claims and for claimants to designate a single contact for information regarding the test claim.

(3) Provisions for claimants to designate a single claimant for a test claim relating to the same statute or executive order filed with the commission, with time limits that do not exceed 90 days from the initial filing for making that designation.

(c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order.

(d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

SEC. 4. Section 17559 of the Government Code is amended to read:

17559. (a) The commission may order a reconsideration of all or part of a test claim or incorrect reduction claim on petition of any party. The power to order a reconsideration or amend a test claim decision shall expire 30 days after the statement of decision is delivered or mailed to the claimant. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of the 30-day period, the commission may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil

Procedure to set aside a decision of the commission on the ground that the commission's decision is not supported by substantial evidence. The court may order the commission to hold another hearing regarding the claim and may direct the commission on what basis the claim is to receive a rehearing.

SEC. 5. Section 17561 of the Government Code is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies pursuant to

Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17555 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars ($1,000). The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case shall a reimbursement claim be paid if submitted more than one year after the filing

deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

SEC. 6. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed two hundred dollars ($200), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds two hundred dollars ($200) even if the individual school district's, direct service district's, or special district's claims do not each exceed two hundred dollars ($200). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines.

SEC. 7. Section 17571 of the Government Code is amended to read:

17571. The commission, upon request of a local agency or school district, shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs. If the commission determines that the claiming instructions do not conform to the parameters and guidelines, the commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the commission.

SEC. 8. Section 23713 of the Government Code is amended to read:

23713. Two copies of the complete text of a charter proposal or of any revised, amended, or repealed section ratified by the electors of a county shall be certified and authenticated by the chairperson and clerk of the governing body and attested by the county elections official, setting forth the submission of the charter to the electors of the county, and its ratification by them. One copy shall be recorded in the office of the recorder of the county and then shall be filed in the office of the county elections official.

The county elections official shall file the second copy with the Secretary of State along with the following:

(a) Certified copies of all publications and notices required of the county by this chapter or by the laws of this state in connection with an election to propose or revise a county charter.

(b) Certified copies of any arguments for or against the charter proposal or revision that were mailed to voters pursuant to Sections 9162 and 13303 of the Elections Code.

(c) A certified abstract of the vote at the election at which the charter proposal or revision was approved by the voters.

SEC. 8.3. Section 25536 of the Government Code is amended to read:

25536. (a) Nothing in this article shall prevent the board of supervisors of a county from, and the board of supervisors of any county is empowered to make contracts, acquiring, leasing, or subleasing property pursuant to Section 1261 of the Military and Veterans Code, or, by a four-fifths vote of the board, entering into leases, or concession or managerial contracts involving leasing or subleasing all or any part of county-owned, leased, or managed property devoted to or held for ultimate use for airport, vehicle parking, fairground, beach, park, amusement, recreation, or employee cafeteria purposes, or industrial or commercial development incidental thereto or not inconsistent therewith without compliance with this article.

(b) In addition to the powers provided in subdivision (a), the County of Monterey may enter into a lease, concession, or managerial contract involving the leasing or subleasing of all or any part of a county-owned, leased, or managed property devoted to or held for ultimate use for juvenile placement.

(c) In addition to the powers provided in subdivisions (a) and (b), the board of supervisors of a county, by a four-fifths vote of the board, may sell or lease all or any part of county-owned property without compliance with this article if the county repurchases or leases back the property as part of the same transaction. By a four-fifths vote of the board of supervisors, the county may pledge specified revenues as security for the payment of obligations incurred in the repurchase or leaseback of the property.

(d) In addition to the powers provided in subdivision (a), the Board of Supervisors of the County of San Bernardino, by a four-fifths vote of the board may directly enter into a lease, involving all or any part of county-owned, leased, or managed property devoted for agricultural purposes.

SEC. 8.5. Section 34460 of the Government Code is amended to read:

34460. Three copies of the complete text of a charter proposal or of any amended or repealed section ratified by the voters of a city or city and county shall be certified and authenticated by the chairperson and the clerk of the governing body and attested by the

city clerk, setting forth the submission of the charter to the voters of the city, and its ratification by them. One copy shall be filed with the recorder of the county in which the city is located, and one in the archives of the city. In the case of a city and county, one copy shall be filed with the recorder thereof, and one in the archives of the city and county. The third copy shall be filed with the Secretary of State. Each copy filed with the recorder of the county or city and county and in the archives of the city or city and county shall be filed with the following:

(a) Certified copies of all publications and notices required of the city by this chapter or by the laws of this state in connection with the calling of an election to propose, amend, or repeal a city charter.

(b) Certified copies of any arguments for or against the charter proposal, amendment, or repeal which were mailed to voters pursuant to Sections 9281 and 13303 of the Elections Code.

(c) A certified abstract of the vote at the election at which the charter proposal, amendment, or repeal was approved by the voters.

SEC. 9. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery. For purposes of this section, ''counterparty'' means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property

owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money that may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the

agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including, the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to December 31, 1994, and was sold using a reverse repurchase agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; the total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement may not be entered into with securities not sold on a reverse repurchase agreement and purchased, or committed to purchase,

prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement, but may only be entered into with securities owned and previously paid for a minimum of 30 days prior to the settlement of the reverse repurchase agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement, unless the reverse repurchase agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security. Reverse repurchase agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(E) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not

less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635, or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 10. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the investments set forth below. A local agency purchasing or obtaining any securities described in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of all the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase.

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body

of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to repurchase agreement on December 31, 1994, and was sold using a reverse repurchase agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale, the total of all reverse repurchase agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio, and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement may not be entered into with securities not sold on a reverse repurchase agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement, but may only be entered into with securities owned and previously paid for, for a minimum of 30 days prior to the settlement of the reverse repurchase agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement, on

securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement, unless the reverse repurchase agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement and the final maturity date of the same security. Reverse repurchase agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(D) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(E) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated"A"

or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivision (*l*) or (m) and that comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivision (*l*) or (m) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(m) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 10.5. Section 17959.3 of the Health and Safety Code is amended to read:

17959.3. (a) It is the intent of the Legislature to encourage the use of passive solar energy design. The Legislature recognizes that building code regulations with regard to natural light and ventilation standards have to be modified to permit existing buildings to be retrofitted with passive solar energy.

(b) Notwithstanding Section 17922, any city or county may by ordinance or regulation permit windows required for light and ventilation of habitable rooms in dwellings to open into areas provided with natural light and ventilation which are designed and built to act as passive solar energy collectors.

(c) On or before September 1, 1999, the department shall, after consulting with the State Energy Resources Conservation and Development Commission, prepare, adopt, and submit building standards to implement the provisions of this section for approval as part of the California Building Standards Code pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5.

SEC. 11. Section 42302 of the Health and Safety Code is amended to read:

42302. An applicant for a permit that has been denied may request, within 30 days after receipt of the notice of the denial, the hearing board of the district to hold a hearing on whether the permit was properly denied.

SEC. 12. Section 42302.1 of the Health and Safety Code is amended to read:

42302.1. Within 30 days of any decision or action pertaining to the issuance of a permit by a district, or within 30 days after mailing of the notice of issuance of the permit to any person who has requested notice, or within 30 days of the publication and mailing of notice provided for in Section 1 of Chapter 1131 of the Statutes of 1993, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the district may request the hearing board of the district to hold a public hearing to determine whether the permit was properly issued. Except as provided in Section 1 of Chapter 1131 of the Statutes of 1993, within 30 days of the request, the hearing board shall hold a public hearing and shall render a decision on whether the permit was properly issued.

SEC. 13. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402

Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525

Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article

3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) In counties that contract with the state to protect state responsibility areas, the total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. In all other counties, any appropriation for fire protection received by a special district pursuant to Section 25642 of the Government Code. The amendment of this subparagraph by Chapter 290 of the Statute of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall

determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter except the 1999–2000 fiscal year, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subparagraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(ii) For the 1995–96 fiscal year only, this subparagraph shall have no application to the County of Mono and the amount allocated pursuant to this subparagraph in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to this subparagraph and

subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) For the 1999–2000 fiscal year, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the

reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 14. Section 7285.5 of the Revenue and Taxation Code is amended to read:

7285.5. As an alternative to the procedure set forth in Section 7285, the board of supervisors of any county may establish an authority for specific purposes.

An authority so established may impose a transactions and use tax at a rate of 0.25 or 0.5 percent for the purpose for which it is established, if all of the following requirements are met:

(a) The ordinance proposing that tax is approved by a two-thirds vote of the authority and is subsequently approved by a vote of the qualified voters of the county voting in an election on the issue in the amount that is otherwise required by law.

(b) The transactions and use tax conforms to Part 1.6 (commencing with Section 7251).

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

SEC. 15. Section 13 of this act, which amends Section 97.2 of the Revenue and Taxation Code, shall not become operative if Assembly Bill 417 of the 1999–2000 Regular Session also is enacted, amends that section, and becomes effective on or before January 1, 2000.

CHAPTER 644

An act to amend Sections 53601 and 53635 of the Government Code, relating to local government finance.

[Approved by Governor October 5, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery. For purposes of this section "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out

of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money that may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may

not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including, the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to December 31, 1994, and was sold using a reverse repurchase agreement or securities lending agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; the total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement or securities lending agreement may not be entered into with securities not sold on a reverse repurchase agreement or securities lending agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement or securities lending agreement, but may only be entered into with securities owned and previously paid for a minimum of 30 days prior to the settlement of the reverse repurchase agreement or securities lending agreement, in order to

supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security. Reverse repurchase agreements or securities lending agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements or securities lending agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement or securities lending agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 and following).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635, or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating

service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 1.5. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery. For purposes of this section "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out

of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money that may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may

not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including, the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to December 31, 1994, and was sold using a reverse repurchase agreement or securities lending agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; the total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement or securities lending agreement may not be entered into with securities not sold on a reverse repurchase agreement or securities lending agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement or securities lending agreement, but may only be entered into with securities owned and previously paid for a minimum of 30 days prior to the settlement of the reverse repurchase agreement or securities lending agreement, in order to

supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security. Reverse repurchase agreements or securities lending agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements or securities lending agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 and following).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635, or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating

service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the investments set forth below. A local agency purchasing or obtaining any securities described in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of all the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book-entry delivery. For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase.

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks,

the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division

2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) (1) Investments in repurchase agreements, reverse repurchase agreements, or securities lending agreements of any securities authorized by this section, so long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to repurchase agreement on December 31, 1994, and was sold using a reverse repurchase agreement or securities lending agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale, the total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio, and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement or securities lending agreement may not be entered into with securities not sold on a reverse repurchase agreement or securities lending agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement or securities lending agreement, but may only be entered into with securities owned and previously paid for, for a minimum of 30 days prior to the settlement of the reverse repurchase agreement or securities lending agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security. Reverse repurchase agreements or securities lending agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements or securities lending agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency

will repurchase the securities on or before a specified date, and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement or securities lending agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes of a maximum of five years' maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivision (*l*) or (m) and that comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 and following).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivision (*l*) or (m) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(m) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 2.5. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the investments set forth below. A local agency purchasing or obtaining any securities described in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of all the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book-entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book-entry delivery. For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase.

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other

instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the

custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements, or securities lending agreements of any securities authorized by this section, so long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements or securities lending agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements may be utilized only when either of the following conditions are met:

(A) The security was owned or specifically committed to purchase, by the local agency, prior to repurchase agreement on December 31, 1994, and was sold using a reverse repurchase agreement or securities lending agreement on December 31, 1994.

(B) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale; the total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency not purchased or committed to purchase, prior to December 31, 1994, does not exceed 20 percent of the base value of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) After December 31, 1994, a reverse repurchase agreement or securities lending agreement may not be entered into with securities not sold on a reverse repurchase agreement or securities lending agreement and purchased, or committed to purchase, prior to that date, as a means of financing or paying for the security sold on a reverse repurchase agreement or securities lending agreement, but

may only be entered into with securities owned and previously paid for a minimum of 30 days prior to the settlement of the reverse repurchase agreement or securities lending agreement, in order to supplement the yield on securities owned and previously paid for or to provide funds for the immediate payment of a local agency obligation. Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement, on securities originally purchased subsequent to December 31, 1994, shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security. Reverse repurchase agreements or securities lending agreements specified in subparagraph (B) of paragraph (3) may not be entered into unless the percentage restrictions specified in that subparagraph are met, including the total of any reverse repurchase agreements or securities lending agreements specified in subparagraph (A) of paragraph (3).

(5) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security, may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York.

(6) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held

by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement or securities lending agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivision (*l*) or (m) and that comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 and following).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or

subdivision (*l*) or (m) and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section. However, no more than 10 percent of the agency's surplus funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(*l*) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(m) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

SEC. 3. (a) Section 1.5 of this bill incorporates amendments to Section 53601 of the Government Code proposed by both this bill and AB 1679. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 53601 of the Government Code, and (3) this bill is

enacted after SB 1679, in which case Section 1 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 53635 of the Government Code proposed by both this bill and AB 1679. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 53635 of the Government Code, and (3) this bill is enacted after SB 1679, in which case Section 2 of this bill shall not become operative.

CHAPTER 645

An act to amend the heading of Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of, to amend Section 32228.1 of, and to add Section 32228.3 to, the Education Code, relating to school safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The heading of Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of the Education Code, as added by Chapter 51 of the Statutes of 1999, is amended to read:

Article 3.6. Carl Washington School Safety and Violence Prevention Act

SEC. 2. Section 32228.1 of the Education Code, as added by Chapter 51 of the Statutes of 1999, is amended to read:

32228.1. (a) The Carl Washington School Safety and Violence Prevention Act is hereby established. This statewide program shall be administered by the Superintendent of Public Instruction, who shall provide funds to school districts serving pupils in any of grades 8 to 12, inclusive, for the purpose of promoting school safety and reducing schoolsite violence. As a condition of receiving funds pursuant to this article, an eligible school district shall certify, on forms and in a manner required by the Superintendent of Public Instruction, that the funds will be used as described in this section.

(b) From funds appropriated in the annual Budget Act or any other measure, funds shall be allocated to school districts on the basis of enrollment of pupils in grades 8 to 12, inclusive, for any one or more of the following purposes:

(1) Providing schools with personnel, including, but not limited to, licensed or certificated school counselors, school social workers,

school nurses, and school psychologists, who are trained in conflict resolution. Any law enforcement personnel hired pursuant to this article shall be trained and sworn peace officers.

(2) Providing effective and accessible on-campus communication devices and other school safety infrastructure needs.

(3) Establishing an in-service training program for school staff to learn to identify at-risk pupils, to communicate effectively with those pupils, and to refer those pupils to appropriate counseling.

(4) Establishing cooperative arrangements with local law enforcement agencies for appropriate school-community relationships.

(5) For any other purpose that the school or school district determines that would materially contribute to meeting the goals and objectives of current law in providing for safe schools and preventing violence among pupils.

SEC. 3. Section 32228.3 is added to the Education Code, to read:

32228.3. For purposes of this article, "school district" means a school district or county office of education.

SEC. 4. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation exclusively to county offices of education for the purposes of funding the activities and full participation of those offices in the Carl Washington School Safety and Violence Prevention Act as set forth in Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of the Education Code. These funds shall be available to county offices of education in the same manner that funds are made available to school districts pursuant to the Carl Washington School Safety and Violence Prevention Act as set forth in Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of the Education Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expand the school safety and violence prevention program established by Chapter 51 of the Statutes of 1999 to allow county offices of education to participate, it is necessary that this act take effect immediately.

CHAPTER 646

An act to amend Sections 1317, 8208, 8359, 10554, 15120, 17150, 17578, 18181, 18182, 32228.1, 32228.2, 35254, 41023, 41852, 42238, 44498, 44503, 44504, 44505, 44506, 44507, 44579.4, 44695, 44695.7, 45023.4, 47632, 47634, 47636, 47642, 47646, 47660, 48660, 48661, 48900.3, 48916.1, 52244, 52853, 56045, and 60119 of, to add Sections 8261.5, 18185,

32228.5, 41344.2, 47613.1, 47634.3, and 47652 to, to add Part 23.5 (commencing with Section 39800) to, to add and repeal Section 41344.1 of, to repeal Sections 41380, 42101, and 60511 of, to repeal Article 3 (commencing with Section 38150) of, and Article 4 (commencing with Section 38155) of, Chapter 4 of, and to repeal Chapter 2 (commencing with Section 38020) of, Part 23 of, to repeal Chapter 1 (commencing with Section 58000) of Part 31 of, the Education Code, to amend Section 628.2 of the Penal Code, to amend Sections 97.2 and 97.3 of the Revenue and Taxation Code, to amend Section 2 of Chapter 3 of the Statutes of the 1999–2000 First Extraordinary Session, to amend Items 6110-122-0001, 6110-186-0001, 6110-495, and 6110-498 of Section 2.00 of Chapter 50 of, and to amend Section 65 of Chapter 78 and Section 6 of Chapter 152 of, the Statutes of 1999, relating to education, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1317 of the Education Code is amended to read:

1317. (a) The county board of education shall adopt the merit system as provided in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2, and Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3, if the county has a merit (civil service) system in effect at the time of the adoption of this article as provided in Section 1310.

(b) Notwithstanding Article 6 (commencing with Section 45240) of Chapter 5 of Part 25, any personnel commission in a county of the third class, as described in Section 2562, may, after a public hearing, and after consultation with all affected employee organizations, adopt a regulation providing for the appointment of one or more alternate members of the personnel commission. The appointment of any alternate member shall be with the concurrence of all affected employee organizations. Thereafter, an alternate may serve only in the absence of a regular commission member.

(c) This section shall not apply to a county board of education which has been transferred specific duties and functions of the county board of supervisors pursuant to Section 1080 on or after June 1, 1977.

SEC. 2. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(b) "Alternative payment program" means a local government agency or nonprofit organization that has contracted with the department pursuant to Section 8220.2 to provide alternative payments and to provide support services to parents and providers.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private nontax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(e) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(f) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(g) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(h) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(i) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.
(2) General child care and development.
(3) Intergenerational child care and development.
(4) Migrant worker child care and development.
(5) Schoolage parenting and infant development.
(6) State preschool.
(7) Resource and referral.
(8) Severely handicapped.

(9) Family day care.
(10) Alternative payment.
(11) Child abuse protection and prevention services.
(12) Schoolage community child care.

(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services may include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(*l*) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be developmentally disabled, hard-of-hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.

(m) "Children with special needs" includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child care and development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs. "Cost" may also include amounts for licensable facilities in the community served by the program, including lease payments or depreciation, down payments, and payments of principal and interest on loans incurred to acquire, rehabilitate, or construct licensable facilities, but these costs shall not exceed fair

market rents existing in the community in which the facility is located. "Reasonable and necessary costs" are costs that, in nature and amount, do not exceed what an ordinary prudent person would incur in the conduct of a competitive business.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Health services" include, but are not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(r) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(s) "Intergenerational staff" means persons of various generations.

(t) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(u) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(v) "Program director" means a person who, pursuant to Sections 8244 and 8360.1, is qualified to serve as a program director.

(w) "Proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(x) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(y) "Severely handicapped children" are children who require instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe developmental disability. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(z) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, or social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(aa) (1) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall hold a permit issued by the Commission on Teacher Credentialing that authorizes supervision of a child care and development program operating in a single site. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendent determines that the existence of compelling need is appropriately documented.

(2) In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential. A person who meets the qualifications of a site supervisor under both Section 8244 and subdivision (e) of Section 8360.1 is also qualified under this subdivision.

(ab) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(ac) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(ad) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(ae) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(af) "Teacher" means a person with the appropriate permit issued by the Commission on Teacher Credentialing who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(ag) "Underserved area" means a county or subcounty area, including, but not limited to, school districts, census tracts, or ZIP Code areas, where the ratio of publicly subsidized child care and development program services to the need for these services is low, as determined by the Superintendent of Public Instruction.

(ah) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8261.5 is added to the Education Code, to read:

8261.5. For purposes of meeting state and federal reporting requirements and for the effective administration of child care and development programs, the Superintendent of Public Instruction is authorized to require the collection and submission of social security numbers of heads of households, and other information as required, from public and private agencies contracting with the State Department of Education pursuant to this chapter, including local educational agencies.

SEC. 4. Section 8359 of the Education Code is amended to read:

8359. (a) County welfare departments and alternative payment programs shall provide to the State Department of Education or the State Department of Social Services, whichever is appropriate, and the local planning council, on a monthly basis, data about child care usage and demand in each of the three stages. The State Department of Education and the State Department of Social Services shall forward this data quarterly to the Department of Finance and the Joint Legislative Budget Committee for fiscal planning.

(b) By January 10 of each year, the Department of Finance shall present to the respective legislative budget committees an estimate of the cost of funding the expected demand for child care as described in subdivision (a) of Section 8351 and Sections 8353 and 8354.

SEC. 5. Section 10554 of the Education Code is amended to read:

10554. (a) In order for the governing board to carry out its responsibilities pursuant to this chapter, there is hereby established the Educational Telecommunication Fund. The amount of moneys to be deposited in the fund shall be the amount of any offset made to the principal apportionments made pursuant to Sections 1909, 2558, 42238, 52616, Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28, and Chapter 7.2 (commencing with Section 56836) of Part 30, based on a finding that these apportionments were not in accordance with law. The maximum amount that may be annually deposited in the fund from the offset shall be one million dollars ($1,000,000), or if the total of the offset is less than one million dollars ($1,000,000), then the total amount of the offset. The Controller shall establish an account to receive and expend moneys in the fund. The placement of the moneys in the fund shall occur only upon a finding by the Superintendent of Public Instruction and the Director of Finance that the principal apportionments made pursuant to Sections 1909, 2558, 42238, 52616, and Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28, and Chapter 7.2 (commencing with Section 56836) of Part 30, were not in accordance with existing law, and were so identified pursuant to Sections 1624, 14506, 41020, 41020.2, 41320, 42127.2, and 42127.3, or an independent audit that was approved by the State Department of Education.

(b) Moneys in the fund established pursuant to subdivision (a) shall only be available for expenditure upon appropriation by the Legislature in the Budget Act.

(c) The moneys in the fund established pursuant to subdivision (a) may be expended by the governing board to carry out the purposes of this chapter, including for the following purposes:

(1) To support the activities of the team established pursuant to subdivision (c) of Section 10551.

(2) To assist the school districts and county superintendents of schools in purchasing both hardware and software to allow school districts, county superintendents of schools, and the State Department of Education to be linked for school business and administrative purposes. The governing board shall establish a matching share requirement that applicant school districts and county superintendents of schools must fulfill to receive those funds. It is the intent of the Legislature to encourage the distribution of grants to school districts and county superintendents of schools to the widest extent possible.

(3) To provide technical assistance through county offices of education to school districts in implementing the standards established pursuant to subdivision (a) of Section 10552.

(d) This section shall become inoperative as of January 1, 2001.

SEC. 6. Section 15120 of the Education Code is amended to read:

15120. (a) The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4, except with respect to each of the following:

(1) As otherwise provided in Sections 15100 to 15126, inclusive.

(2) That the formal notice of the election shall contain, in addition to the items specified in Section 5361, each of the following:

(A) The purposes for which the bonds are to be issued.

(B) The amount of the bonds.

(C) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Sections 15140 to 15143.

(D) The maximum number of years, not to exceed 40, not to exceed which the bonds or any series thereof are to run.

(b) No election shall be held under this section in any school district for a period of 90 days after the election in the same school district.

SEC. 7. Section 17578 of the Education Code is amended to read:

17578. The governing board of each district maintaining a high school shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of their respective schools pursuant to Sections 17579 and 17580.

SEC. 8. Section 18185 is added to the Education Code, to read:

18185. For purposes of this article, a county office of education shall be deemed to be a school district.

SEC. 9. Section 17150 of the Education Code is amended 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.

(c) Prior to delivery of the notice required by subdivision (a) neither the county nor any of its officers shall have any responsibility for the administration of the school district's indebtedness. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

SEC. 9.2. Section 18181 of the Education Code is amended to read:

18181. (a) The California Public School Library Act of 1998 is hereby established to be administered by the Superintendent of Public Instruction. As a condition of receiving funding under this article, school districts shall develop a districtwide school library plan and the local school district governing board shall certify approval of the plan. In developing the plan, school districts are encouraged to include school library media teachers. If a school library media teacher is not employed at a school, schools are encouraged to involve a school library media teacher employed by the district or county office of education in the development of the plan. Charter schools may apply for funding on their own behalf or through their chartering entity. Notwithstanding Section 47610, charter schools applying on their own behalf are required to develop and certify approval of a school library plan.

(b) A county office of education that complies with this section may receive funding under the article commencing in the 1999–2000 fiscal year.

SEC. 9.4. Section 18182 of the Education Code is amended to read:

18182. If the annual Budget Act contains an appropriation for purposes of this article, those funds shall be transferred to the California Public School Library Protection Fund by the Controller to augment the funds appropriated for the California Public Library Protection Act (Art. 6 (commencing with Sec. 18175)). Notwithstanding Article 6 (commencing with Section 18175), the combined appropriation shall be apportioned to school districts and county offices of education on an equal amount per unit of regular average daily attendance reported in the second principal apportionment of the prior fiscal year. The funds shall be expended to support the districtwide school library plan as required by Section 18181.

SEC. 9.5. Section 32228.1 of the Education Code, as added by Chapter 51 of the Statutes of 1999, is amended to read:

32228.1. (a) The School Safety and Violence Prevention Act is hereby established. This statewide program shall be administered by

the Superintendent of Public Instruction, who shall provide funds to school districts serving pupils in any of grades 8 to 12, inclusive, for the purpose of promoting school safety and reducing schoolsite violence. As a condition of receiving funds pursuant to this article, an eligible school district shall certify, on forms and in a manner required by the Superintendent of Public Instruction, that the funds will be used as described in this section.

(b) From funds appropriated in the annual Budget Act or any other measure, funds shall be allocated to school districts on the basis of prior year enrollment, as reported by the California Basic Educational Data System, of pupils in grades 8 to 12, inclusive, for any one or more of the following purposes:

(1) Providing schools with personnel, including, but not limited to, licensed or certificated school counselors, school social workers, school nurses, and school psychologists, who are trained in conflict resolution. Any law enforcement personnel hired pursuant to this article shall be trained and sworn peace officers.

(2) Providing effective and accessible on-campus communication devices and other school safety infrastructure needs.

(3) Establishing an in-service training program for school staff to learn to identify at-risk pupils, to communicate effectively with those pupils, and to refer those pupils to appropriate counseling.

(4) Establishing cooperative arrangements with local law enforcement agencies for appropriate school-community relationships.

(5) For any other purpose that the school or school district determines that would materially contribute to meeting the goals and objectives of current law in providing for safe schools and preventing violence among pupils.

SEC. 9.7. Section 32228.2 of the Education Code, as added by Chapter 51 of the Statutes of 1999, is amended to read:

32228.2. (a) Funds allocated pursuant to subdivision (b) of Section 32228.1 shall be allocated to school districts with jurisdiction over eligible schoolsites, based on enrollment, with a minimum allocation of five thousand dollars ($5,000) for each schoolsite, or a minimum allocation of ten thousand dollars ($10,000) for each school district, whichever is greater.

(b) The number of schoolsites in each school district that receive funding for purposes of this section shall be equal to the number of county-district-school codes, as maintained by the Superintendent of Public Instruction, for that school district as of June 30 of the fiscal year immediately preceding the fiscal year for which the funds are allocated.

(c) Funds allocated pursuant to this article shall supplement, not supplant, expenditures for school safety and violence prevention programs.

SEC. 9.9. Section 32228.5 is added to the Education Code, to read:

32228.5. (a) The Superintendent of Public Instruction shall annually report to the Legislature regarding the use of funds pursuant to this article.

(b) As a condition of receipt of funds pursuant to this article, local education agencies shall provide information for the purpose of compiling the annual report required pursuant to subdivision (a) to the Superintendent of Public Instruction, in a format determined by the Superintendent of Public Instruction.

SEC. 10. Section 35254 of the Education Code is amended to read:

35254. The governing board of any school district may make photographic, microfilm, or electronic copies of any records of the district. The original of any records of which a photographic, microfilm, or electronic copy has been made may be destroyed when provision is made for permanently maintaining the photographic, microfilm or electronic copies in the files of the district, except that no original record that is basic to any required audit shall be destroyed prior to the second July 1st succeeding the completion of the audit.

SEC. 11. Chapter 2 (commencing with Section 38020) of Part 23 of the Education Code is repealed.

SEC. 12. Article 3 (commencing with Section 38150) of Chapter 4 of Part 23 of the Education Code is repealed.

SEC. 13. Article 4 (commencing with Section 38155) of Chapter 4 of Part 23 of the Education Code is repealed.

SEC. 14. Part 23.5 (commencing with Section 39800) is added to the Education Code, to read:

PART 23.5. TRANSPORTATION

CHAPTER 1. TRANSPORTATION SERVICES

Article 1. General Provisions

39800. (a) The governing board of any school district may provide for the transportation of pupils to and from school whenever in the judgment of the board the transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. These contracts may be made with the parent or guardian of the pupil being transported. A governing board may allow the transportation of preschool or nursery school pupils in schoolbuses owned or operated by the district. A state reimbursement may not be received by a district for the transportation of preschool or nursery school pupils.

(b) As used in this article, "municipally owned transit system" means a transit system owned by a city, or by a district created under Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

39801. The governing board of any school district may contract with the county superintendent of schools to provide necessary transportation services. The county superintendent of schools, acting pursuant to the contract, shall have all the powers and duties granted to governing boards by this article.

39801.5. (a) The governing board of any school district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational purposes other than to and from school.

(b) Any district that contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing transportation services.

39802. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than ten thousand dollars ($10,000) is involved, secure bids pursuant to Sections 20111 and 20112 of the Public Contract Code whenever it is contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder.

39803. (a) If a continuing contract for the furnishing of transportation of pupils in school districts to and from school is made it shall be made for a term not to exceed five years. A contract is renewable at the option of the school district and the party contracting to provide transportation services, jointly, at the end of the term of the contract. The contract as renewed shall include all of the terms and conditions of the previous contract, including any provisions increasing rates based on increased costs.

(b) A continuing contract may be made for the lease or rental of schoolbuses, not to exceed five years, except that if a lease or rental contract provides that the district may exercise an option either to purchase the buses or to cancel the lease at the end of each annual period during the period of the contract, the contract may be made for a term not to exceed 10 years.

(c) Notwithstanding any other provisions of law to the contrary, a continuing contract executed under the provisions of this section may be negotiated annually within the contract period when economic factors indicate negotiation is necessary to maintain an equitable pricing structure. Renegotiation is subject to the approval of both contracting parties.

(d) Any rental, lease, or lease-purchase of a schoolbus shall comply with all applicable provisions of Article 3 (commencing with Section 17450) of Chapter 4 of Part 10.5.

39805. In bidding on contracts to be made pursuant to Section 39803, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

39806. In lieu of providing in whole or in part for the transportation of a pupil attending the schools of a district, the governing board may pay to the parents or guardian of the pupil a sum not to exceed the cost of actual and necessary travel incurred in transporting the pupil to and from the regular day schools of the district. A payment may not be made pursuant to this section unless it will be more economical to make the payments than to provide for said transportation.

39807. In lieu of furnishing transportation to pupils attending the schools of a school district, the governing board may pay to the parents or guardian of each pupil the cost of food and lodging of the pupil at a place convenient to the schools. The amount paid on account of each pupil may not exceed the estimated cost to the district of providing for the transportation of the pupil to and from his or her home and the school he or she attends.

39807.5. (a) When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with Section 39800, or between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of this transportation in an amount determined by the governing board.

(b) The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing this transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation.

(c) For the purposes of this section, ''nonsubsidized cost'' means actual operating costs less federal subventions.

(d) The governing board shall exempt from these charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board.

(e) A charge under this section may not be made for the transportation of handicapped children.

(f) Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

39808. (a) The governing board of any school district may allow a pupil entitled to attend the school of the district, but who, under Section 48222, attends a school other than a public school to be transported upon the same terms, in the same manner, and over the same routes of travel as is permitted pupils attending the district school.

(b) The allowance provided for in this section shall be restricted to actual transportation when furnished by the district to pupils attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of pupils attending private schools.

39809.5. (a) The sum of the state aid received and the parent fees collected in a fiscal year may not exceed actual operating cost of home-to-school transportation in that fiscal year.

(b) If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years.

(c) The governing board shall certify to the county superintendent that districts have levied fees in accordance with law, and that fees have been reduced and excess fee revenue eliminated whenever excess fees have been charged.

Article 2. State Reimbursement

39820. (a) Notwithstanding any other provision of law, the governing board of any school district may provide, beginning in the 1975–76 fiscal year, for the transportation to and from public school of pupils who have attained the age of three years and nine months and are enrolled in classes established pursuant to Chapter 4.45 (commencing with Section 56440) of Part 30 whenever in the judgment of the board, transportation is advisable and good reasons exist therefor. A governing board may allow for the transportation of parents of pupils enrolled in these classes for the purpose of accompanying their children to and from the attendance center offering the early primary classes.

(b) School districts shall receive state reimbursements for the transportation of pupils described in subdivision (a) pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.

Article 3. Schoolbuses

39830. A schoolbus is any motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of its owner.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle or truck transporting two or more handicapped pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a handicapped pupil confined to a wheelchair, or from a parent of the handicapped pupil, for transportation to or from nonschool activities. However, the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 39830.1.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission that is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 of the Vehicle Code that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

39830.1. A "school pupil activity bus" means any motor vehicle, other than a schoolbus, operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, or by a passenger charter-party carrier, used under a contractual agreement between a school and carrier to transport school pupils at or below the 12th grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult designated by the parent is present to accept the pupil or place the pupil on the bus. As used in this section, "common carrier," "publicly owned or operated transit system," and "passenger charter-party carrier" mean carriers in business for the principal purpose of transporting members of the

public on a commercial basis. This section shall not apply to a motor vehicle operated by a carrier licensed by the Interstate Commerce Commission transporting pupils on a school activity trip entering or returning to the state from another state or country.

The driver of a school pupil activity bus shall be subject to the regulations adopted by the Department of the California Highway Patrol governing schoolbus drivers, except that the regulations shall not require drivers to duplicate training or schooling that they have otherwise received that is equivalent to that required pursuant to the regulations, and the regulations may not require drivers to take training in first aid. However, a valid certificate to drive a school pupil activity bus does not entitle the bearer to drive a schoolbus.

39831. (a) The State Board of Education shall adopt reasonable regulations relating to the use of schoolbuses by school districts and others. The regulations may not govern the safe operation of schoolbuses that shall be adopted instead by the Department of the California Highway Patrol.

(b) The Department of the California Highway Patrol shall adopt regulations pursuant to Section 34500 of the Vehicle Code relating to the safe operation of schoolbuses that shall also require school district governing boards to include in their schoolbus driver training programs, the proper actions to be taken in the event that a schoolbus is hijacked.

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner and operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated

next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction that includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

(c) The information recorded pursuant to subdivision (b) shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

39832. The name or names of the particular school or schools to which a schoolbus conveys pupils may be painted on the side of the bus, in the manner prescribed by the Department of the California Highway Patrol.

39833. Any officer, agent, or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of a schoolbus in violation of any regulation or order of the Department of the California Highway Patrol, and any person knowingly operating a schoolbus without possessing the qualifications required by the Department of the California Highway Patrol for schoolbus operators, is guilty of a misdemeanor.

39834. (a) Except as provided in subdivision (b), any officer, agent, or employee of a school district, office of the county superintendent of schools, or joint powers agency, or any other person, knowingly operating, or permitting or directing the operation of a schoolbus, when it is loaded with schoolchildren in excess of the limits of its seating capacity, is guilty of a misdemeanor.

(b) The governing board of any school district, office of the county superintendent of schools, or joint powers agency may adopt a district policy establishing plans for the evacuation of pupils in case of any emergency that may provide, where necessary, for the loading

of schoolchildren on a schoolbus in excess of the limits of its seating capacity.

(c) As used in this section, "emergency" means a natural disaster or hazard that requires pupils to be moved immediately in order to ensure their safety.

39835. (a) The governing board of any school district may use schoolbuses to transport persons for purposes of community recreation as provided in Chapter 10 (commencing with Section 10900) of Part 7. The transportation may be provided on any day or days throughout the school year.

(b) Any school district that files forms with the Superintendent of Public Instruction covering the annual report of transportation expense in connection with reimbursement for transportation shall show on the forms the total mileage of schoolbuses used in providing transportation for community recreation purposes. The Superintendent of Public Instruction, in accordance with regulations adopted by him or her, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting persons for community recreation.

39836. During any national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, the governing board of a school district may operate any bus owned or under lease to the district for the transportation of pupils of the district engaged in the harvesting of crops to and from the places of harvest and shall require the payment of a reasonable charge for transportation furnished.

39837. The governing board of any school district may use and operate any bus owned or under lease to the district for the transportation of pupils to and from their places of employment during the summer in connection with any summer employment program for youth. The governing board shall require the payment of a reasonable charge for transportation so furnished. The governing board shall, in accordance with Section 35208, adequately insure against the liability of the district, members of the board, and officers and employees of the district in connection with the furnishing of transportation.

39837.5. The governing board of any school district may provide for the transportation of employees of the district and of parents of pupils of the district to and from educational activities authorized by the district.

39838. (a) Each schoolbus shall be equipped with one or more fire extinguishers bearing the approval of the laboratories of the National Board of Fire Underwriters, Underwriters' Laboratories Incorporated, or any other nationally recognized testing laboratory, and located in an easily accessible place in the driver's compartment.

(b) Each schoolbus shall be equipped with one or more fire extinguishers with an aggregate rating of at least 8-B, C units, as rated

by the Underwriters' Laboratories Incorporated. Carbon tetrachloride fire extinguishers may not be used on schoolbuses.

39839. Guide dogs, signal dogs, and service dogs trained to provide assistance to individuals with a disability may be transported in a schoolbus when accompanied by disabled pupils enrolled in a public or private school or by disabled teachers employed in a public or private school or community college or by persons training the dogs.

39840. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus that is owned or leased by the school district to any federal, state, or local governmental agency for the purpose of providing transportation for employees of the agency to or from their places of employment, or both, if the following conditions are satisfied:

(a) Public transportation is not reasonably available to the agency's employees at their place of employment.

(b) The school district normally provides transportation for pupils residing on the governmental agency's property to or from school, or both.

(c) The transportation of the agency's employees does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the federal, state, or local governmental agency.

(e) Mechanical condition of a schoolbus during operation by the federal, state, or local governmental agency is maintained so as to meet or exceed those regulations promulgated by the State Department of Education pursuant to Section 39831 governing the operation of schoolbuses.

(f) Accurate records are maintained that reflect the actual number of miles any schoolbus is driven during times of operation by the federal, state, or local governmental agency, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with Section 39835, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting employees of a federal, state, or local governmental agency pursuant to this section.

39841. The following requirements shall be included in any agreement entered into between a school district and a publicly owned transit system under which the school district grants the use of any schoolbus that is owned or leased by it to the transit system for public transportation purposes:

(a) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the transit system.

(b) Mechanical condition of a schoolbus during operation by the transit system is maintained so as to meet or exceed those regulations adopted by the State Board of Education pursuant to Section 39831 governing the operation of schoolbuses.

(c) Accurate records are maintained that reflect the actual number of miles any schoolbus is driven during times of operation by the transit system.

39842. (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.

Article 4. Special Services

39860. The governing board of any school district may contract for the transportation of pupils attending schools within the district to and from any exposition or fair, school activities, or other activities which the governing board determines to be for the benefit of the pupils, in this state, and may pay for the transportation out of any funds of the district available for the purpose.

CHAPTER 2. FARM LABOR DRIVER TRAINING COURSE

40070. (a) The State Department of Education shall develop or approve a course for the training of schoolbus, school pupil activity bus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Sections 12517 and 12519 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving the course.

(b) The department shall train or approve the necessary instructional personnel to conduct the course. For schoolbus and school pupil activity bus training, the department shall provide for and approve the course outline and lesson plans used in the course. For farm labor vehicle training, the department shall approve the course outline and lesson plans used in the course.

CHAPTER 3. SPECIALIZED VEHICLE DRIVER TRAINING COURSES

40080. (a) This article governs the minimum training required for drivers to obtain or renew a certificate described in Section 12517, 12519, or 12804.6 of the Vehicle Code.

(b) As used in this article, "department" means the State Department of Education.

40081. (a) The department shall develop or approve courses for training school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification pursuant to Sections 12517, 12519, and 12804.6 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving those courses.

(b) The department shall train or approve the necessary instructional personnel to conduct the driver training courses. For all schoolbus and school pupil activity bus (SPAB) driver instructor training, the department shall provide for and approve the course outline and lesson plans used in the course. For transit bus and farm labor vehicle driver training, the department shall approve the course outline and lesson plans used in the course.

(c) All courses of study and training activities required by this article shall be approved by the department and given by, or in the presence of, an instructor in possession of a valid school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate of the appropriate class.

(d) As an alternative to subdivisions (a), (b), and (c), instructors who have received a certificate from the Transportation Safety Institute of the United States Department of Transportation indicating that they have completed the Mass Transit Instructor Orientation and Training (Train-the-Trainer) course may approve courses of instruction and train transit bus drivers in order to meet the requirements for certification pursuant to Section 12804.6 of the Vehicle Code.

40082. (a) An original applicant for a certificate to drive a schoolbus, as defined by Section 545 of the Vehicle Code, shall have successfully completed a minimum 40-hour course of instruction. The course shall include at least 20 hours of classroom instruction in, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be driven by the applicant to transport pupils. All behind-the-wheel training shall be

given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5.

(b) Except as provided in subdivision (c), a driver who is holding a driver certificate or endorsement described in Section 40083, and is seeking a schoolbus certificate of the appropriate class, shall have successfully completed a minimum of five hours of classroom instruction, including, but not limited to, schoolbus laws and regulations, defensive driving, pupil loading and unloading, and the exceptional child. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The driver shall also complete at least three hours of behind-the-wheel training in defensive driving practices, lane control, railroad grade crossing procedures, and pupil loading and unloading.

(c) A driver may not be certified to drive a schoolbus in the manner set forth in subdivision (b) if that driver was instructed by a person who received his or her certificate in the manner described in subdivision (d) of Section 40081.

40083. An original applicant for a certificate to drive any bus defined by Section 546 or 642 of the Vehicle Code shall have successfully completed a minimum 35-hour course of instruction. The course shall include at least 15 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course, or other classroom curricula which the department has certified meets or exceeds the standards in its curricula. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class, except that an instructor who has received a certificate as described in subdivision (d) of Section 40081, may provide the training for an original applicant for a certificate to drive a bus defined by Section 642 of the Vehicle Code. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course, or at least 20 hours of other behind-the-wheel training or driving experience that the department has certified meets or exceeds the standards of its training course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be used to transport passengers. All behind-the-wheel training for a certificate to drive a bus defined by Section 546 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5. All behind-the-wheel training for a certificate to drive a bus defined by Section 642 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5, or the delegated behind-the-wheel trainer as

designated by the instructor certified pursuant to subdivision (d) of Section 40081.

40084. An original applicant for a certificate to drive a farm labor vehicle shall have successfully completed a minimum 20-hour course of instruction. The course shall include at least 10 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 10 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those that will be driven by the applicant to transport farm passengers. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 40084.5.

40084.5. (a) All behind-the-wheel training required to obtain certificates pursuant to Sections 12517 and 12519 of the Vehicle Code shall be performed by a state-certified instructor or by a delegated behind-the-wheel trainer who has been certified or approved by the department to conduct the required training.

(b) A "delegated behind-the-wheel trainer" means a person selected to assist a state-certified instructor in the behind-the-wheel training of drivers. Selected persons shall be trained by state-certified instructors and approved by the department before conducting any behind-the-wheel training. The minimum standards for the selection of a delegated behind-the-wheel trainer are as follows:

(1) One year experience as a driver of the appropriate type and size vehicle immediately preceding the date of selection as a delegated behind-the-wheel trainer.

(2) Possession of the appropriate license, certificates, and endorsements needed to drive and train in a particular type and size vehicle.

(3) A high school diploma or General Education Development (GED) equivalent.

(4) A driving record without chargeable accidents within the past three years immediately preceding the date of selection.

(5) Successful completion of all training in the latest edition of the Instructor's Behind-the-Wheel Training Guide for California's Bus Driver's Training Course given by, and in the presence of, a state-certified instructor of the appropriate class.

(6) Successful completion of a written assessment test on current laws, regulations, and policies given by, and in the presence of, a state-certified instructor of the appropriate class.

(7) Successful completion of a driving test and a behind-the-wheel training performance test on all phases of behind-the-wheel and

vehicle inspection training. The test shall be given by, and in the presence of, a state-certified instructor of the appropriate class.

(c) The state-certified instructor shall train and document the qualifications and competence of each delegated behind-the-wheel trainer to be utilized in training. All training required by this section shall be documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the delegated behind-the-wheel trainer. The signatures shall certify that the instruction was given to, and received by, the delegated behind-the-wheel trainer and that the delegated behind-the-wheel trainer displayed a level of competency necessary to train drivers to drive authorized vehicles in a safe and competent manner. The completed State Department of Education Training Certificate T-01 shall be submitted to the department in Sacramento, along with all other required documents, when requesting approval of a delegated behind-the-wheel trainer.

(d) The department may disapprove the eligibility of a delegated behind-the-wheel trainer for any of the following causes:

(1) The state-certified instructor authorizing the competency of the delegated behind-the-wheel trainer has requested disapproval.

(2) The employer of the delegated behind-the-wheel trainer has requested disapproval.

(3) The delegated behind-the-wheel trainer has voluntarily requested disapproval.

(4) The delegated behind-the-wheel trainer failed to comply with Section 40087.

(5) The delegated behind-the-wheel trainer failed to comply with Section 40084.5.

(6) The delegated behind-the-wheel trainer does not possess a valid driver's license, appropriate endorsements, or special driver's certificate of the appropriate class.

(7) The delegated behind-the-wheel trainer's driver's license or special driver's certificate has been suspended or revoked.

(e) A delegated behind-the-wheel trainer may be limited in behind-the-wheel training as determined by the department.

40085. Applicants seeking to renew a certificate to drive a schoolbus as defined in Section 545 of the Vehicle Code or a school pupil activity bus as defined in Section 546 of the Vehicle Code shall have successfully completed at least 10 hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the

special driver certificate validity, the 10 hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 40089 may be accepted in lieu of the requirements of this section.

40085.5. Applicants seeking to renew a certificate to drive a transit bus as defined in Section 642 of the Vehicle Code shall have successfully completed at least eight hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class, or an instructor certified pursuant to subdivision (d) of Section 40081, to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the validity of the certificate, the eight hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 40089 may be accepted in lieu of the requirements of this section.

40086. Applicants seeking to renew a certificate to drive a farm labor vehicle shall have successfully completed two hours of classroom instruction for each 12 months of certificate validity covering, but not limited to, current laws and regulations, accident prevention, and defensive driving. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the farm labor vehicle driver license or certificate. All training required in Section 40089 may be accepted in lieu of the requirements of this section.

40087. (a) Except as provided in subdivision (b), driver training required by this chapter shall be properly documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the driver or applicant. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The

applicant or driver shall present the completed State Department of Education Training Certificate T-01 to the examining state agency when applying for an endorsement or certificate, or, for renewal of an endorsement or certificate.

(b) Driver training provided by an instructor certified pursuant to subdivision (d) of Section 40081 shall be documented on a form developed by the Department of Motor Vehicles, with the consultation of the department. The form shall be signed by the instructor and by the applicant or driver. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed form to the Department of Motor Vehicles when applying for a certificate or for renewal of a certificate.

40088. (a) An applicant for a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall successfully complete the appropriate instructor course given or approved by the department.

(b) An applicant for the course shall possess:

(1) A valid driver's license and endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(2) A certificate or endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(3) Five years of experience as a driver in the appropriate vehicle category, or two years experience of that driving experience and three years equivalent experience driving vehicles that require a class A or B driver's license.

(4) A high school diploma or General Education Development (GED) equivalent.

(5) A driving record without chargeable accidents within the past three years preceding the date of application for the instructor certificate.

The department may waive any or all of the requirements of this subdivision as it determines is necessary to ensure that there are an adequate number of state-certified instructors in the state.

(c) (1) A state-certified schoolbus driver instructor of the appropriate class may instruct all applicants for a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate.

(2) A state-certified school pupil activity bus (SPAB) driver instructor of the appropriate class may instruct all applicants for a school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate, but not a schoolbus certificate.

(3) A state-certified transit bus instructor of the appropriate class may instruct all applicants for a transit bus or farm labor driver's certificate, but not a school pupil activity bus (SPAB) or a schoolbus certificate.

(4) A state-certified farm labor vehicle driver instructor may instruct applicants only for a certificate to drive a farm labor vehicle.

(d) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall be valid until suspended, revoked, or canceled if it is accompanied by a valid driver's license and a special driver's certificate or valid driver's license and endorsement of the appropriate class or is limited to classroom or in-service training only.

(e) The department may suspend or revoke a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate for any of the following causes:

(1) The certificate holder failed to comply with Section 40087.

(2) The certificate holder failed to comply with Section 40084.5.

(3) The certificate holder has committed an act listed in Section 13369 of the Vehicle Code or Section 13370 of that code.

(f) The department shall revoke a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver instructor certificate if the certificate holder falsified a State Department of Education Training Certificate T-01, T-02, or T-03.

(g) The department may cancel the driver instructor certificate for any of the following causes:

(1) The certificate holder has voluntarily requested cancellation.

(2) The certificate holder has his or her driving privilege suspended or revoked.

(3) The certificate holder has failed to meet the provisions required for retention of the driver instructor certificate. This includes failure to meet the instructor training requirements prescribed by Section 40084.5.

(4) The certificate holder does not possess a valid driver's license, endorsement, or special driver's certificate of the appropriate class.

(h) The department shall by regulation adopt an instructor certificate appeals procedure for subdivisions (e), (f), and (g).

(i) The Department of Motor Vehicles or the Department of the California Highway Patrol may disallow the driver training documentation provided pursuant to Section 40087 signed by any driver instructor certified pursuant to Section 40081 if either of those departments finds that the instructor's certificate would have been suspended, revoked, or canceled for any of the reasons designated in subdivision (e), (f), or (g).

40089. (a) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor with no instructional limitations shall conduct at least 20 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel and 10 hours of classroom training, which need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to either classroom or behind-the-wheel training only shall conduct at least 10 hours of instruction each 12 months that includes at least 10 hours of

behind-the-wheel or classroom training depending on the limitation. The training need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to in-service training only shall conduct at least 10 hours of in-service training each 12 months. All school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle driver instructor training conducted by department staff may be accepted in lieu of the requirements of this subdivision.

(b) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor may be limited to classroom instruction, behind-the-wheel training or in-service training only, and prohibited from recording, documenting, or signing for any training required by this article, as determined by the department.

(c) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor shall be limited to behind-the-wheel instruction in vehicles that the instructor is qualified to drive.

(d) All school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor training required by subdivision (a) shall be properly documented on a State Department of Education Training Certificate T-01, and signed by the state-certified instructor at the end of each 12-month training period. The signature certifies that the required instruction was conducted during the 12-month training period. Upon renewal of the instructor driver's license, endorsement, or certificate, the completed instructor training record, recorded on the State Department of Education Training Certificate T-01, shall be submitted to the department in Sacramento.

40090. The department may assess fees to any instructor applicant who will be training drivers of any vehicle as defined in Section 642 of the Vehicle Code. The fee may not be more than necessary to offset the department's reasonable costs.

40090.5. Employers shall take all action necessary to make available to every transit busdriver required to be trained pursuant to Section 40083 or 40085.5 the opportunity to be trained without the loss of wages or benefits.

SEC. 15. Section 41023 of the Education Code is amended to read:

41023. (a) Any agency organized pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the parties of which consist solely of school districts and county offices of education, shall be subject to the same restrictions as are applicable to school districts and county offices of education, under that chapter, including the preparation of budget and financial statements required by Article 1 (commencing with Section 42100) and this article; the certifications required by Article 2 (commencing with Section 35010) of Chapter 1 of Part 21; the accounting and auditing requirements prescribed by Article 1 (commencing with Section 42100) and this article; and the

expenditure and appropriation controls prescribed by Chapter 9 (commencing with Section 42600) of Part 24. This section does not apply to joint powers agreements that are for the performance of the powers described in Section 17567.

(b) Each agency described in subdivision (a) shall annually report to their participating school districts and county superintendents of schools on forms prescribed by the Superintendent of Public Instruction.

SEC. 15.6. Section 41344.2 is added to the Education Code, to read:

41344.2. Notwithstanding subdivision (c) of Section 41344 or any other provision of law, the State Board of Education may consider and act upon requests to retroactively waive any provision of this code or any regulation adopted by the State Board of Education that is the basis of an apportionment significant audit if the request was received in writing by the State Department of Education prior to July 7, 1999.

SEC. 16. Section 41380 of the Education Code is repealed.

SEC. 18. Section 41852 of the Education Code is amended to read:

41852. (a) Any school district or county superintendent of schools that receives a transportation apportionment in the 1984–85 fiscal year, or any fiscal year thereafter, shall establish a restricted pupil transportation account within its general fund. The district or county superintendent shall deposit in the restricted pupil transportation account all transportation apportionments received pursuant to this article in any fiscal year and any other funds at the option of the district or county superintendent. Any funds remaining in the restricted pupil transportation account at the end of the fiscal year may remain in the restricted pupil transportation account for expenditure in subsequent fiscal years or may be transferred to the pupil transportation equipment fund.

(b) Any school district or county superintendent of schools may establish a pupil transportation equipment fund. The fund shall receive all state and local funds designated for acquisition, rehabilitation, or replacement of pupil transportation equipment. Funds deposited in the pupil transportation equipment fund shall be used exclusively for acquisition, rehabilitation and replacement of pupil transportation equipment, except as provided in Section 41853.

SEC. 19. Section 42101 of the Education Code is repealed.

SEC. 20. Section 42238 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1995–96 fiscal year, the equalization adjustment specified in Section 42238.4.

(3) For the 1996–97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.

(4) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(5) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) (1) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(A) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(B) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(C) Add the amounts in subparagraphs (A) and (B).

(2) This subdivision shall become inoperative on July 1, 1998.

(e) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(f) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

(g) The reduction required by subdivision (f) shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect

immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years' taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(7) The amount, if any, received pursuant to any provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any

amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15, paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(8) For a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, the amount of statewide average general-purpose funding per unit of average daily attendance received by school districts for each of four grade level ranges, as computed by the State Department of Education pursuant to Section 47633, multiplied by the average daily attendance, in corresponding grade level ranges, of any pupils who attend charter schools funded pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 for which the district is the sponsoring local educational agency, as defined in Section 47632, and who reside in and would otherwise have been eligible to attend a noncharter school of the district.

SEC. 20.1. Section 44498 of the Education Code is amended to read:

44498. (a) When a school district notifies the Superintendent of Public Instruction, pursuant to subdivision (a) or (c) of Section 44505, that it plans to implement a program pursuant to Article 4.5 (commencing with Section 44500), this article shall not apply to that school district. The Superintendent of Public Instruction shall continue to apportion funding to the school district pursuant to Sections 44492 and 44492.3 for the 1999–2000 and 2000–01 fiscal years. The school district may use this funding for activities necessary to implement the Peer Assistance and Review Program for Teachers, and for purposes of subdivision (b) of Section 44506.

(b) California Mentor Teacher Program funding allocated but unclaimed by individual local educational agencies at the end of the 1998–99 and the 1999–2000 fiscal years shall be offset from program funds advanced for the succeeding fiscal year, provided sufficient funds are available. Mentor teacher support funding that has been claimed, but remains unexpended, may be carried over and used for purposes of the California Peer Assistance and Review Program for Teachers (Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25).

(c) This article shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20.2. Section 44503 of the Education Code is amended to read:

44503. (a) The governing board of a school district that accepts state funds for purposes of this article agrees to negotiate the development and implementation of the program with the exclusive

representative of the certificated employees in the school district, if the certificated employees in the district are represented by an exclusive representative. In a school district in which the certificated employees are not represented, the school district shall develop a Peer Assistance and Review Program for Teachers consistent with this article in order to be eligible to receive funding under this article.

(b) Functions performed pursuant to this article by certificated employees employed in a bargaining unit position shall not constitute either management or supervisory functions as defined by subdivisions (g) and (m) of Section 3540.1 of the Government Code.

(c) Teachers who provide assistance and review shall have the same protection from liability and access to appropriate defense as other public school employees pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(d) It is the intent of the Legislature that school districts be allowed to combine, by mutual agreement, their programs of peer assistance and review with those of other school districts.

(e) Not more than 5 percent of the funds received by a school district for the Peer Assistance and Review Program for Teachers may be expended for administrative expenses.

SEC. 20.3. Section 44504 of the Education Code is amended to read:

44504. (a) Except as provided in Section 44505, the California Peer Assistance and Review Program for Teachers shall become fully operational on July 1, 2001, on which date it shall completely replace the California Mentor Teacher Program established pursuant to Chapter 1302 of the Statutes of 1983 and set forth in Article 4 (commencing with Section 44490). This article is applicable to all school districts that elect to receive state funds for the California Peer Assistance and Review Program for Teachers. Commencing with the 2001–02 fiscal year, funding shall only be made available for purposes authorized by this article. A school district that elects to participate in the program established pursuant to this article shall certify to the Superintendent of Public Instruction by August 1, 2001, that it has implemented a Peer Assistance and Review Program for Teachers pursuant to this article.

(b) A school district that does not elect to participate in the program authorized under this article by July 1, 2001, is not eligible for any apportionment, allocation, or other funding from an appropriation for the program authorized pursuant to this article or for any apportionments, allocations, or other funding from funding for local assistance appropriated pursuant to Budget Act Item 6110-231-0001, funding appropriated for the Administrator Training and Evaluation Program set forth in Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25, from an appropriation for the Instructional Time and Staff Development Reform Program as set forth in Article 7.5 (commencing with Section 44579) of Chapter 3, or from an appropriation for school development plans as set forth

in Article 1 (commencing with Section 44670.1) of Chapter 3.1 and the Superintendent of Public Instruction shall not apportion, allocate, or otherwise provide any funds to the district pursuant to those programs.

(c) Commencing February 1, 2002, a school district that elects not to participate in the program authorized under this article shall report annually at a regularly scheduled meeting of the governing board of the school district on the rationale for not participating in the program.

SEC. 20.4. Section 44505 of the Education Code is amended to read:

44505. (a) Between July 1, 1999, and June 30, 2000, a school district may notify the Superintendent of Public Instruction that it plans to implement, commencing July 1, 2000, a Peer Assistance and Review Program for Teachers pursuant to this article. Upon receipt of the notification by the school district, the Superintendent of Public Instruction shall apportion to the school district two thousand eight hundred dollars ($2,800) or an amount equal to the number of mentor teachers that the state calculated the school district is entitled to in the 1999–2000 fiscal year pursuant to Article 4 (commencing with Section 44490) multiplied by two thousand eight hundred dollars ($2,800), whichever is greater.

(b) A school district that notifies the Superintendent of Public Instruction that it plans to implement a Peer Assistance and Review Program for Teachers by July 1, 2000, pursuant to subdivision (a), shall certify to the Superintendent of Public Instruction that it has implemented a program by August 1, 2000. In addition to the certification, the Superintendent of Public Instruction may request a copy of the signature page of the collective bargaining agreement implementing the program required pursuant to subdivision (a) of Section 44503. A school district that fails to provide the required certification is not eligible to receive an apportionment for the Peer Assistance and Review Program for Teachers pursuant to subdivision (a) of this section or subdivision (a) of Section 44498 in the 2000–01 school year, or in any year thereafter. The school district, however, may be eligible to receive an apportionment for the Peer Assistance and Review Program for Teachers pursuant to subdivision (c) of this section and subdivision (a) of Section 44498 in the 2000–01 school year, and in each year thereafter, if the school district complies with the requirements set forth in subdivisions (c) and (d).

(c) Between July 1, 2000, and May 31, 2001, a school district may notify the Superintendent of Public Instruction that it plans to implement, commencing July 1, 2001, a Peer Assistance and Review Program for Teachers pursuant to this article. On or before June 29, 2001, the Superintendent of Public Instruction shall apportion to every school district that provides this notification an amount equal to the number of mentor teachers that the state calculated the school district is entitled to in the 1999–2000 school year pursuant to Article

4 (commencing with Section 44490) times a maximum of one thousand dollars ($1,000). Any school district that provides this notification shall receive at least the amount that would be received pursuant to this section by a school district with one state funded mentor in the 2000–01 school year pursuant to Article 4 (commencing with Section 44490).

(d) A school district that notifies the Superintendent of Public Instruction that it plans to implement a Peer Assistance and Review Program for Teachers by July 1, 2001, pursuant to subdivision (c), shall certify to the Superintendent of Public Instruction that it has implemented a program by July 1, 2001. In addition to the certification, the Superintendent of Public Instruction may request a copy of the signature page of the collective bargaining agreement implementing the program required pursuant to subdivision (a) of Section 44503. A school district that fails to provide the required certification is not eligible for any apportionment for the Peer Assistance and Review Program received pursuant to subdivision (c) of this section, and subdivision (a) of Section 44498 in the 2001–02 school year, or in any year thereafter.

(e) The funding provided pursuant to subdivisions (a) and (c) of this section and subdivision (a) of Section 44498 shall be provided to eligible school districts in each year that the school operates a Peer Assistance and Review Program for Teachers pursuant to this article except as provided in paragraph (2).

(f) The maximum amount of funds available for apportionment to school districts by the Superintendent of Public Instruction for allocation pursuant to subdivision (c) shall be the amount appropriated pursuant to subdivision (a) of Section 6 of the act adding this section, minus any funds apportioned by the Superintendent of Public Instruction to school districts pursuant to subdivision (a) as of June 30, 2000.

(g) A school district may use funds apportioned pursuant to this section for activities necessary to implement the Peer Assistance and Review Program for Teachers.

SEC. 20.3. Section 44506 of the Education Code is amended to read:

44506. (a) The state funding for this article subsequent to the 1999–2000 fiscal year is subject to an appropriation in the annual Budget Act. It is the intent of the Legislature that the funding for the program for the 2000–01 fiscal year be at least equal to the 1999–2000 fiscal year appropriation for Article 4 (commencing with Section 44490) plus the amount apportioned pursuant to Section 44505.

(b) A school district that receives funds for purposes of this article may also expend those funds for any of the following purposes:

(1) The Marian Bergeson Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2.

(2) The California Pre-Internship Teaching Program as set forth in Article 5.6 (commencing with Section 44305) of Chapter 2.

(3) A district intern program as set forth in Article 7.5 (commencing with Section 44325) of Chapter 2.

(4) Professional development or other educational activities previously provided pursuant to Article 4 (commencing with Section 44490) of Chapter 3.

(5) Any program that supports the training and development of new teachers.

(c) (1) The Superintendent of Public Instruction shall determine a base funding unit rate for the California Peer Assistance and Review Program for Teachers that is equal to the total amount provided for the California Mentor Teacher Program in subdivision (b) of Section 6 of Chapter 4 of the Statutes of 1999 for the First Extraordinary Session, divided by the total number of mentor teachers that the state calculated the school district is entitled to in the 1999–2000 fiscal year.

(2) For the 2000–01 fiscal year, and annually thereafter, the Superintendent of Public Instruction shall apportion to each school district that certified implementation of the Peer Assistance and Review Program for Teachers pursuant to subdivision (b) of Section 44505, an amount equal to 5 percent of the prior year count of certificated classroom teachers employed by the school district, multiplied by a rate which equals the sum of (1) the base amount per funding unit as calculated in paragraph (1) of subdivision (c), adjusted annually pursuant to subdivision (b) of 42238.1, and (2) two thousand eight hundred dollars ($2,800); adjusted annually pursuant to subdivision (b) of Section 42238.1.

(3) Beginning in the 2001–02, and annually thereafter, the Superintendent of Public Instruction shall apportion to each school district that certified implementation of a Peer Assistance and Review Program for Teachers pursuant to subdivision (d) of Section 44505, an amount equal to 5 percent of the prior year count of certificated classroom teachers employed by the school district, multiplied by a rate which equals the sum of (1) the base amount per funding unit as calculated in paragraph (1) of subdivision (c), adjusted annually pursuant to subdivision (b) of Section 42238.1, and (2) the per mentor teacher unit amount provided to he district pursuant to subdivision (c) of Section 44505, adjusted annually pursuant to subdivision (b) of Section 42238.1.

(4) In paragraphs (2) and (3) of this subdivision, 5 percent of the certificated classroom teacher employed by the district shall be rounded to the next whole integer.

(5) If at the end of any fiscal year, an amount of funds available for purposes of the Peer Assistance and Review Program remain unallocated, the Superintendent of Public Instruction shall use the unallocated amount to increase the base funding rate calculated under paragraph (1) for the succeeding fiscal year.

SEC. 20.6. Section 44507 of the Education Code is amended to read:

44507. Subject to the availability of funding in the annual Budget Act, the Superintendent of Public Instruction shall contract with an independent evaluator on or before December 15, 2002, to prepare a comprehensive evaluation of the implementation, impact, cost, and benefit of the California Peer Assistance and Review Program for Teachers. The evaluation shall be delivered to the Legislature, the Governor, and interested parties on or before January 1, 2004. As a condition of receiving funding, school districts implementing programs pursuant to this article shall provide data, as requested by the Superintendent of Public Instruction, to provide baseline information for the evaluation.

SEC. 20.4. Section 44579.4 of the Education Code is amended to read:

44579.4. (a) For the 1998–99 school year, a school district may request on or before October 31, 1999, and the State Board of Education may provide a waiver of instructional time requirements if both of the following conditions are met:

(1) The district provides evidence to the board that the waiver is necessary only because the repeal of the authority of school districts to provide staff development during instructional time results in the district being unable to reasonably meet the instructional time requirements.

(2) The school district had a school calendar, or a schoolsite plan adopted in accordance with law, either of which was approved by the governing board prior to the operative date of this section, or not more than 30 days after that date, that authorizes the use of instructional days for staff development.

(b) A school district that receives a waiver for the 1998–99 school year shall ensure that both of the following occur:

(1) The combined instructional time and staff development time provided by the district during the 1998–99 school year pursuant to the waiver meets or exceeds 180 days or the equivalent number of annual instructional minutes determined pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26.

(2) The actual instructional time provided is at least 172 days or the equivalent number of annual instructional minutes determined pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26.

(c) The maximum amount of instructional time that may be waived may not exceed the number of days for which the school district had previously approved for staff development days within the school calendar, or in a schoolsite plan adopted in accordance with law.

(d) A school district that receives a waiver for the 1998-99 school year under this section shall only be eligible to receive staff development funding under this article for each day of staff

development offered under this article that replaces a staff development day previously authorized under Sections 44670.6, 48645.7, 52022, 52854, or 56242 and utilized during the 1997–98 school year and that was included in a school calendar, or schoolsite plan adopted in accordance with law, that was approved by the local governing board prior to the operative date of this section or not more than 30 days after that date. For purposes of this subdivision, a staff development day funded pursuant to the Staff Development Buy-Out Program in the 1997–98 school year shall be funded in the 1998-99 school year with no requirement that this day replace an additional staff development day that was previously authorized pursuant to Sections 44670.6, 48645.7, 52022, 52854, or 56242.

SEC. 21. Section 44695 of the Education Code is amended to read:

44695. The State Department of Education shall administer a program of staff development grants to reimburse school districts and county offices of education for fees and materials costs for teachers to take mathematics courses offered by the mathematics departments at accredited institutions of higher education. The purpose of the staff development coursework is to increase the content knowledge of teachers who teach mathematics to pupils in grades 4 to 12, inclusive, in order to increase the teacher's capability to impart knowledge of mathematics content consistent with the academically rigorous content standards adopted by the State Board of Education in the subject of mathematics. The department shall do all of the following:

(a) Develop criteria, guidelines, and procedures as necessary and submit these to the State Board of Education for amendments, if any, and approval.

(b) Identify school districts that meet eligibility requirements for grant awards.

(c) Calculate an allotment for eligible school districts pursuant to Section 44695.5.

(d) Allocate funds to eligible school districts pursuant to Section 44695.5 based on the actual cost of fees and materials.

SEC. 22. Section 44695.7 of the Education Code is amended to read:

44695.7. Funds received pursuant to this article may be expended only for fees and required course materials for courses in mathematics offered by the mathematics departments at accredited institutions of higher education.

SEC. 22.6. Section 45023.4 of the Education Code, as added by Chapter 53 of the Statutes of 1999, is amended to read:

45023.4. (a) This section shall be known, and may be cited, as the Jack O'Connell Beginning-Teacher Salary Incentive Program. Commencing in the 1999–2000 fiscal year the governing board of a school district, the county superintendent of schools, or the county board of education may increase, for teachers who meet the requirements of this subdivision, the salary on its adopted certificated

employee salary schedule as provided in subdivision (b). Any school district that elects to meet the requirements of this section shall be eligible to receive the incentive amount provided by subdivision (c). For purposes of this section, any teacher for whom the governing board, county superintendent of schools, or county board of education may increase salaries shall meet all of the following criteria:

(1) Hold a valid California teaching credential, not including an emergency permit, intern permit, or waiver.

(2) Possess a baccalaureate or higher degree.

(3) Receive a salary paid from the general fund of the district or county office.

(b) The governing board, county superintendent of schools, or county board of education that elects to increase teachers' salaries as authorized pursuant to subdivision (a) shall perform the following computations:

(1) The governing board, county superintendent of schools, or county board of education shall designate as the lowest salary on the salary schedule for a certificated employee meeting or exceeding the criteria in subdivision (a) an amount equal to a minimum annual salary of thirty-two thousand dollars ($32,000). If this salary change results in costs to the school district or county office of education that are equal to or greater than the incentive received pursuant to subdivision (c), the minimum salary shall be thirty-two thousand dollars ($32,000). If this salary change results in costs to the school districts or county offices of education that are less than the incentive received the remainder shall be used to increase the beginning salary by an amount above thirty-two thousand dollars ($32,000) which fully applies the incentive received.

(2) The governing board, county superintendent of schools, or county board of education shall increase to the annual salary amount in paragraph (1) the salary of any certificated employee meeting the criteria in subdivision (a) whose salary on the salary schedule is less than the amount computed in paragraph (1) and, notwithstanding Section 45028, shall incorporate that increase into the salary schedule.

(3) The newly adopted salary schedule shall contain only one cell that meets the amount set forth in paragraph (1), which most often is the first-year step of a salary schedule column for certificated personnel who meet the criteria set forth in subdivision (a). All other salary schedule cells shall exceed the level set forth in paragraph (1) for personnel that meet the criteria in subdivision (a).

(c) In the 1999–2000 fiscal year, the Superintendent of Public Instruction shall divide the amount appropriated for the purposes of this section by the 1998–99 second principal apportionment average daily attendance for all school districts and county offices of education in the state. Each school district and county office of education that certifies to the Superintendent of Public Instruction that it is in full compliance with this section shall receive following

that certification an amount equal to the results of the calculation multiplied by the participating school district's or county office's 1998–99 second principal apportionment average daily attendance.

(d) Each school district or county office of education that meets the requirements of subdivision (b) may adjust its revenue limit computed pursuant to Section 2550 or 42238 to reflect the amount received pursuant to subdivision (c) for purposes of calculating revenue limits for the 2000–01 fiscal year and each fiscal year thereafter. This adjustment shall be increased by an amount necessary to compensate for the deficit factor calculated pursuant to Sections 2558.45 and 42238.145.

(e) The adjustment to the district's revenue limit prescribed in subdivision (d) shall continue so long as the increase in the salary schedule made pursuant to paragraph (2) of subdivision (b) is maintained.

(f) The adjustment made to school district or county office of education revenue limits pursuant to subdivision (d) shall not be considered part of the base revenue limit for the purpose of computing equalization adjustments or determining other wealth-related differences in school funding.

(g) This section does not prohibit a school district and its employees from negotiating salary schedules.

SEC. 22.7. Section 47613.1 is added to the Education Code, to read:

47613.1. In the 1999–2000, 2000–01, or 2001–02 fiscal years, the Superintendent of Public Instruction shall make all of the following apportionments on behalf of a charter school that elects not to be funded pursuant to the block grant funding model set forth in Section 47633 in each fiscal year that the charter school so elects:

(a) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.

(b) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.

(c) Funds for the programs described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

SEC. 23. Section 47632 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47632. For purposes of this chapter, the following terms shall be defined as follows:

(a) "General-purpose entitlement" means an amount computed by formula set forth in Section 47633 beginning in the 1999–2000 fiscal year, which is based on the statewide average amounts of general purpose funding from those state and local sources identified in Section 47633 received by school districts of similar type and serving similar pupil populations.

(b) "Categorical block grant" means an amount computed by the formula set forth in Section 47634 beginning in the 1999–2000 fiscal year, which is based on the statewide average amounts of categorical aid from those sources identified in Section 47634 received by school districts of similar type and serving similar pupil populations.

(c) "General-purpose funding" means those funds that consist of state aid, local property taxes, and other revenues applied toward a school district's revenue limit, pursuant to Section 42238.

(d) "Categorical aid" means aid that consists of state or federally funded programs, or both, which are apportioned for specific purposes set forth in statute or regulation.

(e) "Educationally disadvantaged pupils" means those pupils who are eligible for subsidized meals pursuant to Section 49552 or are identified as English learners pursuant to subdivision (a) of Section 306, or both.

(f) "Operational funding" means all funding except funding for capital outlay.

(g) "School district of a similar type" means a school district that is serving similar grade levels.

(h) "Similar pupil population" means similar numbers of pupils by grade level, with a similar proportion of educationally disadvantaged pupils.

(i) "Sponsoring local educational agency" means the following:

(1) In the cases where a charter school is granted by a school district, the sponsoring local educational agency is the school district.

(2) In cases where a charter is granted by a county office of education after having been previously denied by a school district, the sponsoring local educational agency means the school district that initially denied the charter petition.

(3) In cases where a charter is granted by the State Board of Education after having been previously denied by a local educational agency, the sponsoring local educational agency means the local educational agency designated by the State Board of Education pursuant to paragraph (1) of subdivision (k) of Section 47605 or if a local educational agency is not designated, the local educational agency that initially denied the charter petition.

(4) For pupils attending county-sponsored charter schools who are eligible to attend such schools solely as a result of parental request pursuant to subdivision (b) of Section 1981, the sponsoring local education agencies means the pupils' school districts of residence.

SEC. 23.1. Section 47634 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47634. The Superintendent of Public Instruction shall annually compute a categorical block grant amount for each charter school as follows:

(a) The superintendent shall compute, as of June 30, 1999, the estimated statewide average amount of funding for other state categorical aid per unit of average daily attendance received by school districts in 1998–99, for each of four grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and grades 9 to 12, inclusive. For purposes of this computation, other state categorical aid is limited to the following programs:

(1) The Agricultural Vocational Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Apprentice education established pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6.

(3) The Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25.

(4) College preparation programs as set forth in Chapter 8 (commencing with Section 60830) of Part 33, the Academic Improvement and Achievement Act as set forth in Chapter 12 (commencing with Section 11020) of Part 7, and the advanced placement program as set forth in Chapter 8.3 (commencing with Section 52240) of Part 28.

(5) Community day schools as set forth in Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(6) The Demonstration Programs in Intensive Instruction as set forth in Chapter 4 (commencing with Section 58600) of Part 31.

(7) The School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act, as set forth in Article 7 (commencing with Section 54720) of Chapter 9 of Part 29.

(8) The Early Intervention for School Success Program, as set forth in Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

(9) Education Technology pursuant to Article 15 (commencing with Section 51870.5) of Chapter 5 of Part 28.

(10) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.

(11) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(12) The Healthy Start Support Services for Children Act, as set forth in Chapter 5 (commencing with Section 8800) of Part 6.

(13) High-risk first-time offenders programs pursuant to Chapter 2 (commencing with Section 47760) of Part 26.95.

(14) The General Fund contribution to the State Instructional Material Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(15) Intersegmental programs for kindergarten and grades 1 to 12, inclusive, funded by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(16) Proposition 98 educational programs pursuant to Item 6110-231-0001 of Section 2.00 of the Budget Act of 1998.

(17) The California Mentor Teacher Program, as set forth in Article 4 (commencing with Section 44490) of Chapter 3 of Part 25.

(18) The Miller-Unruh Basic Reading Act of 1965, as set forth in Chapter 2 (commencing with Section 54100) of Part 29.

(19) The Morgan-Hart Class Size Reduction Act of 1989, as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.

(20) Opportunity schools pursuant to Article 2 (commencing with Section 48630) of Chapter 4 of Part 27.

(21) Partnership academies pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29.

(22) Mathematics staff development pursuant to Chapter 3.25 (commencing with Section 44695) and Chapter 3.33 (commencing with Section 44720) of Part 25.

(23) Improvement of elementary and secondary education pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(24) The School Community Policing Partnership Act of 1998, as set forth in Article 6 (commencing with Section 32296) of Chapter 2.5 of Part 19.

(25) The School/Law Enforcement partnership funded by Item 6110-226-0001 of Section 2.00 of the Budget Act of 1998.

(26) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.

(27) School personnel staff development and resource centers pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.

(28) Supplemental grants funding, not otherwise included in the programs described above, provided by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(29) Academic progress and counseling review pursuant to Section 48431.6.

(30) The Schiff-Bustamante Standards-Based Instructional Materials Programs as set forth in Chapter 3.5 (commencing with Section 60450) of Part 33.

(31) The Elementary School Intensive Reading Program, as set forth in Chapter 16 (commencing with Section 53025) of Part 28.

(32) The California Public School Library Protection Act, as set forth in Article 6 (commencing with Section 18175) of Chapter 2 of Part 11.

(33) The Public School Accountability Act of 1999, as set forth in Chapter 6.1 (commencing with Section 52050) of Part 28.

(34) The California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.

Notwithstanding any other provision of law, charter schools that have received a block grant pursuant to this section shall not be eligible to receive separate funding for programs enumerated in paragraphs (1) to (34), inclusive or any other state categorical aid programs established on or after July 1, 1999, for which charter schools are not required to apply separately.

(b) For purposes of the computation prescribed by subdivision (a), other state categorical aid may not include any of the following:

(1) Programs for which a charter school is required to apply separately.

(2) Programs that support, or are provided in lieu of, capital expenses.

(3) Funding for court-ordered or voluntary desegregation programs.

(4) Special education programs.

(5) Economic Impact Aid.

(6) Lottery funds.

(c) The superintendent shall annually adjust each of the resulting four amounts computed pursuant to subdivision (a) by the cumulative percentage change from the 1998–99 fiscal year, as annually calculated by the Director of Finance pursuant to Section 47634.5, in the total amount of state funding per unit of average daily attendance received by K–12 local educational agencies for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution, exclusive of funding for adult education, child development programs, special education, Economic Impact Aid, revenue limits for school districts and county offices of education, and programs for which a charter school is required to apply separately.

(d) The superintendent shall multiply each of the four amounts computed in subdivision (c) by the charter school's average daily attendance in the corresponding grade level ranges.

(e) The superintendent shall compute the statewide average amount of funding per identified educationally disadvantaged pupil received by school districts in the current year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount may, if greater than zero, not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English language learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(f) The superintendent shall add the amounts computed in subdivisions (d) and (e). The resulting amount shall be the charter school's categorical block grant, that the superintendent shall

apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute.

(g) Notwithstanding any other provision of law, a charter school is not eligible to apply for funding under any of the programs the funding of which is included in the computation of the categorical block grant. The Superintendent of Public Instruction shall annually provide each charter school with a list of these programs and shall ensure that a charter school receives timely notification of the opportunity to apply for programs administered by the State Department of Education that are excluded from the categorical block grant.

(h) It is the intent of the Legislature to fully fund the categorical block grant and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance in charter schools.

(i) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

SEC. 23.2. Section 47634.3 is added to the Education Code, to read:

47634.3. For purposes of Sections 47633 and 47634, the superintendent shall compute average daily attendance in each of grades 1 through 12, respectively, as follows:

(a) Distribute statewide total ungraded enrollment and average daily attendance among kindergarten and each of grades 1 through 12, inclusive, in proportion to the amounts of graded enrollment and average daily attendance, respectively, in each of these grades.

(b) Multiply enrollment in each of grades 1 through 12, respectively, by the ratio of average daily attendance to enrollment in the applicable grade range: 1 through 3, inclusive, 4 through 6, inclusive; 7 and 8; and 9 through 12, inclusive.

SEC. 23.3. Section 47636 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47636. (a) This chapter may not be construed to prevent charter schools from applying for, or receiving, operational funding under state or federal categorical programs, the funding of which is not included in the computation of the block grant entitlement. Unless specifically prohibited, a charter school shall only apply for federal or state categorical programs as follows:

(1) A charter school that elects to receive its funding directly, pursuant to Section 47651, may apply for federal and state categorical programs individually. Except as otherwise provided in this chapter, for purposes of determining eligibility for, and allocations of federal or state categorical aid, a charter school that applies individually shall be deemed to be a school district.

(2) A charter school that does not elect to receive its funding directly may apply for federal and state categorical programs in cooperation with its sponsoring local educational agency.

(b) This chapter may not be construed to prevent a charter school from negotiating with a local educational agency for a share of operational funding from sources not otherwise set forth in this chapter including, but not limited to, all of the following:

(1) Forest reserve revenues and other operational revenues received due to harvesting or extraction of minerals or other natural resources.

(2) Sales and use taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(3) Parcel taxes, to the extent that the associated revenues are available for noncapital expenses of public schools.

(4) Ad valorem property taxes received by a school district which exceed its revenue limit entitlement.

(5) "Basic aid" received by a school district pursuant to Section 6 of Article IX of the California Constitution.

SEC. 23.4. Section 47642 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47642. Notwithstanding Section 47651, all state and federal funding for special education apportioned on behalf of pupils enrolled in a charter school shall be included in the allocation plan adopted pursuant to subdivision (i) of Section 56195.7 or Section 56836.05, or both, by the special education local plan area that includes the charter school.

SEC. 23.5. Section 47646 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47646. (a) A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school of that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations.

(b) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56200) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education receives an equitable share of special education funding and services consisting of either, or both, of the following:

(1) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the charter school that serves pupils enrolled in and attending the charter school.

(2) Any necessary special education services, including administrative and support services and itinerant services, that is provided by the local educational agency on behalf of pupils with disabilities enrolled in the charter school.

(c) In administering the local operation of special education pursuant to the local plan established pursuant to Chapter 3 (commencing with Section 56200) of Part 30, in which the local educational agency that granted the charter participates, the local educational agency that granted the charter shall ensure that each charter school that is deemed a public school for purposes of special education also contributes an equitable share of its charter school block grant funding to support districtwide special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school.

SEC. 23.6. Section 47652 is added to the Education Code, to read:

47652. Notwithstanding Section 41330, for the 1999–2000 fiscal year a charter school in its first year of operation shall be eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located. Not later than five business days following the end of the first 20 school days, a charter school receiving funding pursuant to this section shall report to the Department of Education its actual average daily attendance for that first month, and the Superintendent of Public Instruction shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.

SEC. 23.7. Section 47660 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47660. (a) For purposes of computing eligibility for, and entitlements to, general-purpose funding and operational funding for categorical programs, a sponsoring local educational agency's enrollment and average daily attendance shall exclude all enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b) Notwithstanding subdivision (a), for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to Section 47606, shall include all attendance of pupils who attend charter schools for which the district is the sponsoring

local educational agency and reside in, and would otherwise have been eligible to attend a noncharter school of, the district.

SEC. 23.9. Section 48660 of the Education Code is amended to read:

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 to 6, inclusive, or any of grades 7 to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

SEC. 24. Section 48661 of the Education Code is amended to read:

48661. (a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(1) 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 certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(2) When the governing board of a school district that is organized as a district to serve kindergarten and grades 1 to 8, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(3) When the governing board of a school district that desires to operate a community day school to serve any of kindergarten and grades 1 to 6, inclusive, but no higher grades, certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) 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. 25. Section 48900.3 of the Education Code is amended to read:

48900.3. In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended

from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

SEC. 26. Section 48916.1 of the Education Code is amended to read:

48916.1. (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an education program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e) (1) Each school district shall maintain data as specified in this subdivision and report the data annually to the State Department of Education, commencing June 1, 1997, on forms provided by the State Department of Education. The school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) When a school district does not report outcome data as required by this subdivision, the Superintendent of Public

Instruction may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with the provisions of this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent of Public Instruction shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

SEC. 30. Section 52244 of the Education Code is amended to read:

52244. (a) There is hereby established a pilot grant program for the purpose of awarding grants to cover the costs of advanced placement examination fees. The State Department of Education shall administer this program.

(b) Any school district may apply to the State Department of Education for grant funding pursuant to this section, based on the number of economically disadvantaged pupils in the district enrolled in advanced placement courses who will take the next offered advanced placement examinations. A school district that applies to the State Department of Education for this purpose shall designate school district staff to whom pupils may submit applications for grants and shall institute a plan to notify pupils of the availability of financial assistance pursuant to this section. Grants shall be expended only to pay the fees required of pupils to take an advanced placement examination.

(c) Any economically disadvantaged pupil who is enrolled in an advanced placement course may apply to the designated school district staff for a grant pursuant to this section. A pupil who receives a grant shall pay five dollars ($5) of the examination fee.

(d) School districts and county superintendents of schools may join together and form collaboratives or consortia in order to participate in the grant program established by this section.

(e) Grants provided pursuant to this section shall not be used to supplant fee waivers available to low-income pupils who take advanced placement examinations.

(f) If the total school district applications exceed the total funds available pursuant to this section, the State Department of Education shall prorate the grants based upon the ratio of the total amount requested to the total amount budgeted by the state for this purpose.

(g) To facilitate program administration and school district reimbursement, the State Department of Education may enter into a contract with the provider of advanced placement examinations.

For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(h) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 31. Section 52853 of the Education Code is amended to read:

52853. (a) The schoolsite council shall develop a school plan which shall include all of the following:

(1) Curricula, instructional strategies and materials responsive to the individual needs and learning styles of each pupil.

(2) Instructional and auxiliary services to meet the special needs of non-English-speaking or limited-English-speaking pupils, including instruction in a language these pupils understand; educationally disadvantaged pupils; gifted and talented pupils; and pupils with exceptional needs.

(3) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers, including those participating in special programs. Staff development programs may include the use of program guidelines that have been developed by the superintendent for specific learning disabilities, including dyslexia, and other related disorders. The strategies included in the guidelines and instructional materials that focus on successful approaches for working with pupils who have been prenatally substance exposed, as well as other at-risk pupils, may also be provided to teachers.

(4) Ongoing evaluation of the educational program of the school.

(5) Other activities and objectives as established by the council.

(6) The proposed expenditures of funds available to the school through the programs described in Section 52851. For purposes of this subdivision, proposed expenditures of funds available to the school through the programs described in Section 52851 shall include, but not be limited to, salaries and staff benefits for persons providing services for those programs.

(7) The proposed expenditure of funds available to the school through the federal Improving America's Schools Act of 1994 (IASA) (20 U.S.C. Sec. 6301 et seq.) and its amendments. If the school operates a state-approved schoolwide program pursuant to Section 6314 of Title 20 of the United States Code in a manner consistent with the expenditure of funds available to the school pursuant to Section 52851, employees of the schoolwide program may be deemed funded by a single cost objective.

(b) The schoolsite council shall annually review the school plan, establish a new budget, and if necessary, make other modifications in the plan to reflect changing needs and priorities.

SEC. 31.5. Section 56045 of the Education Code, as added by Chapter 78 of the Statutes of 1999, is amended to read:

56045. (a) The Superintendent of Public Instruction shall send a notice to each member of the governing board of a local education agency within 30 days of the superintendent's receipt of notification by the federal government that a local educational agency is not in compliance with the Individual's with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or Section 504 of the Rehabilitation Act or 1973 (29 U.S.C. Sec. 794), or when the Superintendent of Public Instruction determines that the local educational agency is not in substantial compliance with any provision of this part. The notice shall provide a description of those services required by the statute with which the local educational agency is not in compliance.

(b) Upon receipt of the notification sent pursuant to subdivision (a), the governing board shall at a regularly scheduled public hearing address the issue of noncompliance.

SEC. 32. Chapter 1 (commencing with Section 58000) of Part 31 of the Education Code is repealed.

SEC. 32.2. Section 60119 of the Education Code is amended to read:

60119. (a) For the 1999–2000 fiscal year and each fiscal year thereafter, in order to be eligible to receive funds available for the purposes of this article, the governing board of a school district shall take the following actions:

(1) The governing board shall hold a public hearing or hearings at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders, and shall make a determination, through a resolution, as to whether each pupil in each school in the district has, or will have prior to the end of that fiscal year, sufficient textbooks or instructional materials, or both, in each subject that are consistent with the content and cycles of the curriculum framework adopted by the state board.

(2) (A) If the governing board determines that there are insufficient textbooks or instructional materials, or both, the governing board shall provide information to classroom teachers and to the public setting forth the reasons that each pupil does not have sufficient textbooks or instructional materials, or both, and take any action, except an action that would require reimbursement by the Commission on State Mandates, to ensure that each pupil has sufficient textbooks or instructional materials, or both, within a two-year period from the date of the determination.

(B) In carrying out subparagraph (A), the governing board may use money in any of the following funds:

(i) Any funds available for textbooks or instructional materials, or both, from categorical programs, including any funds allocated to school districts that have been appropriated in the annual Budget Act.

(ii) Any funds of the school district that are in excess of the amount available for each pupil during the prior fiscal year to purchase textbooks or instructional materials, or both.

(iii) Any other funds available to the school district for textbooks or instructional materials, or both.

(b) The governing board shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district.

(c) Except for purposes of Section 60252, governing boards of school districts that receive funds for instructional materials from any state source, are subject to the requirements of this section only in a fiscal year in which the Superintendent of Public Instruction determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

(d) The governing board of a school district is eligible to receive funds available for the purposes of this article for the 1994–95 fiscal year to the 1998–99 fiscal year, inclusive, whether or not the governing board complied with the public hearing requirement set forth in paragraph (1) of subdivision (a).

SEC. 35. Section 628.2 of the Penal Code is amended to read:

628.2. (a) On forms prepared and supplied by the State Department of Education, each principal of a school in a school district and each principal or director of a school, program, or camp under the jurisdiction of the county superintendent of schools shall forward a completed report of crimes committed on school or camp grounds at the end of each reporting period to the district superintendent or county superintendent of schools, as the case may be.

(b) The district superintendent, or, as appropriate, the county superintendent of schools, shall compile the school data and submit the aggregated data to the State Department of Education not later than February 1 for the reporting period of July 1 through December 31, and not later than August 1 for the reporting period of January 1 through June 30.

(c) The superintendent of any school district that maintains a police department pursuant to Section 39670 of the Education Code may direct the chief of police or other administrator of that department to prepare the completed report of crimes for one or more schools in the district, to compile the school data for the district, and to submit the aggregated data to the State Department of Education in accordance with this section. If the chief of police or other designated administrator completes the report of crimes, the chief of police or other designated administrator shall provide information to each school principal about the school crime reporting program, the crime descriptions included in the reporting program,

the reporting guidelines, and the required documentation identified by the State Department of Education for each crime description.

(d) The State Department of Education shall distribute, upon request, to each school district governing board, each office of the county superintendent of schools, each county probation department, the Attorney General, the Fair Employment and Housing Commission, county human relations commissions, civil rights organizations, and private organizations, a summary of the statewide aggregated data. The department also shall distribute, upon request, to each office of the county superintendent of schools, each county sheriff, and each county probation department, a summary of that county's school district reports and county reports. This information shall be supplied not later than March 1 of each year for the previous school year. The department shall also submit to the Legislature a summary of the statewide aggregated data not later than March 1 of each year for the previous school year. In addition, commencing with the second annual report, the department shall identify and analyze trends in school crime by comparing the numbers and rates of crimes and the resulting economic losses for each year against those of previous years.

(e) All school district, county, and statewide reports prepared under this chapter shall be deemed public documents and shall be made available to the public at a price not to exceed the actual cost of duplication and distribution.

SEC. 35.5. Section 97.2 of the Revenue and Taxation Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

97.2. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438

Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103

Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for "museums" pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, "revenues that are pledged to debt service" include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a

special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate

the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subparagraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(ii) For the 1995–96 fiscal year only, this subparagraph shall have no application to the County of Mono and the amount allocated pursuant to this subparagraph in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3

shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

SEC. 36. Section 97.3 of the Revenue and Taxation Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been

imposed on all counties under the proposal specified in the "May Revision of the 1993–94 Governor's Budget" shall be determined by reference to the document entitled "Estimated County Property Tax Transfers Under Governor's May Revision Proposal," published by the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars ($104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a "qualifying community services district" means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional

changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of "Fire Protection," that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase "amount of revenue allocated to that special district" means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount

that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office

of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education, that is not an excess tax school entity until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3)

and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subparagraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(ii) For the 1995–96 fiscal year only, this subparagraph shall have no application to the County of Mono and the amount allocated pursuant to this subparagraph in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant

to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 38. Section 2 of Chapter 3 of the Statutes of the 1999–2000 First Extraordinary Session, is amended to read:

Sec. 2. (a) The sum of one hundred ninety-three million two hundred thousand dollars ($193,200,000) is hereby appropriated according to the following schedule:

(1) Sixty-three million seven hundred four thousand dollars ($63,704,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for planning and grants for implementing the Immediate Intervention/Underperforming Schools Program as set forth in Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.

(2) Thirty-two million four hundred forty-six thousand dollars ($32,446,000) from the Federal Trust Fund to the Superintendent of Public Instruction for allocation to school districts for purposes of providing funding for implementing comprehensive school reform pursuant to Public Law 105-78.

(3) Ninety-six million one hundred fifty thousand dollars ($96,150,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts that meet or exceed performance growth targets established by the board pursuant to the High Achieving/Improving Schools Program as set forth in Article 4 (commencing with Section 52056) of Chapter 6.1 of Part 28 of the Education Code. Funds appropriated pursuant to this paragraph that have not been allocated by June 30, 2000, shall be available for allocation and expenditure for purposes of this paragraph in the 2001–02 fiscal year.

(4) Nine hundred thousand dollars ($900,000) from the General Fund to the Superintendent of Public Instruction to provide support services related to programs established by the Public Schools Accountability Act of 1999 pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraphs (1) and (3) 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 1999–2000 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 1999–2000 fiscal year.

SEC. 39. Section 65 of Chapter 78 of the Statutes of 1999 is amended to read:

Sec. 65. The sum of fifteen million four hundred seventy-one thousand dollars ($15,471,000) is hereby reappropriated from the Proposition 98 Reversion Account to the Superintendent of Public Instruction, in accordance with the following schedule:

(a) Forty thousand dollars ($40,000) for allocation on a one-time basis to the Alpine Union School District to work in collaboration with the Alpine Community Center to support the Each One Teach One program.

(e) Two thousand five hundred dollars ($2,500) for allocation on a one-time basis to the Alta-Dutch Flat Union School District to provide afternoon school busing service.

(j) Thirty thousand dollars ($30,000) for allocation on a one-time basis to the Lafayette School District in Contra Costa County for the purchase of age-appropriate school playground equipment.

(q) Two hundred thousand dollars ($200,000) for allocation on a one-time basis to the Palmdale Elementary School District to support a joint-use library with the City of Palmdale.

(s) Fifty thousand dollars ($50,000) for allocation on a one-time basis to the ABC School District for construction of a joint-use recreational facility at Hawaiian Gardens Elementary School.

(t) Fifty-seven thousand dollars ($57,000) for allocation on a one-time basis to the Central Union School District to provide a covered outdoor structure for the Stratford School.

(u) Eighty-five thousand dollars ($85,000) for allocation on a one-time basis to the Sunol Glen Unified School District for a septic system.

(v) One hundred thousand dollars ($100,000) for allocation on a one-time basis to the Long Beach Unified School District for construction of a swimming facility in the City of Avalon on Catalina Island.

(w) One hundred twenty thousand dollars ($120,000) for allocation on a one-time basis to the Anaheim Unified School District for construction of a lunch shelter at Henry Elementary School.

(x) One hundred twenty thousand dollars ($120,000) for allocation on a one-time basis to the Anaheim Unified School District for construction of a lunch shelter at Lincoln Elementary School.

(y) Six hundred thousand dollars ($600,000) for allocation on a one-time basis to Lawndale Elementary School District to renovate the William Green Park, school park, and playground.

(z) Seven hundred thousand dollars ($700,000) for allocation on a one-time basis to the County Office Fiscal Crisis and Management Assistance Team (FCMAT) for distribution to the Compton Unified

School District for the purposes of assisting with the implementation of the school district's recovery plan.

(aa) One million five hundred thousand dollars ($1,500,000) for allocation on a one-time basis to school districts and county offices of education that operate programs to subsidize the costs for low-income children to participate in residential outdoor science programs, pursuant to legislation enacted in the 1999–2000 Regular Session that becomes operative on or before January 1, 2000.

(bb) Two million dollars ($2,000,000) for allocation on a one-time basis to the Superintendent of Public Instruction to provide matching grants to school districts for the purpose of improving or replacing schoolsite playground equipment to meet state-mandated playground safety standards, pursuant to legislation enacted in the 1999–2000 Regular Session that becomes operative on or before January 1, 2000.

(ee) Two million dollars ($2,000,000) for allocation on a one-time basis to the Grossmont Union High School District for the Valhalla High School Library.

(ff) Two hundred fifty thousand dollars ($250,000) for allocation on a one-time basis to the Los Angeles County Office of Education and the Long Beach Unified School District for the Los Angeles High School for the Arts and the California Academy of Math and Science.

(gg) Twenty-five thousand dollars ($25,000) for allocation on a one-time basis to the Fairfield-Suisun Unified School District on a one-time basis for the Youth Diversion Program at Crystal Middle School.

(ii) Seven hundred fifty thousand dollars ($750,000) for allocation on a one-time basis to the San Luis Coastal Unified School District for construction of a swimming pool at San Luis Obispo High School.

(kk) One million dollars ($1,000,000) for allocation on a one-time basis equally among the following school districts for the Home Instruction for Preschool Youngsters program:

(1) Long Beach Unified School District.

(2) Moreno Valley Unified School District.

(3) San Diego Unified School District.

(4) Contra Costa County Office of Education.

(5) San Francisco Unified School District.

(*ll*) One hundred fifty thousand dollars ($150,000) for allocation on a one-time basis to the Baldwin Park Unified School District for science laboratory equipment.

(nn) One hundred eighty-two thousand five hundred dollars ($182,500) for allocation in the specified amounts on a one-time basis to the following districts for snow removal:

(1) Eighty thousand dollars ($80,000) to the Tahoe-Truckee Unified School District.

(2) Four thousand five hundred dollars ($4,500) to the Alpine County Unified School District.

(3) Two thousand dollars ($2,000) to the Vallecito Union Elementary School District.

(4) Five thousand dollars ($5,000) to the Susanville School District.

(5) Forty thousand dollars ($40,000) to the Mammoth Unified School District.

(6) One thousand dollars ($1,000) to the Sierra-Plumas Joint Unified School District.

(7) Fifty thousand dollars ($50,000) to the Lake Tahoe Unified School District.

(pp) Seven hundred fifty thousand dollars ($750,000) for allocation on a one-time basis to the County Office Fiscal Crisis and Management Assistance Team (FCMAT) for an audit of the Oakland Unified School District.

(rr) Five hundred thousand dollars ($500,000) for allocation on a one-time basis to the Mount Diablo Unified School District for a multipurpose facility for the Diablo View Parent Club.

(tt) Five hundred thousand dollars ($500,000) for allocation on a one-time basis to the Sweetwater Union High School District for a joint-use library project between the Sweetwater Union High School District and the South Bay Union Elementary School District.

(uu) Two hundred seventy-six thousand six hundred dollars ($276,600) for allocation on a one-time basis to the Sanger Unified School District for a swimming pool.

SEC. 40. Item 6110-122-0001 of Section 2.00 of Chapter 50 of the Statutes of 1999 is amended to read:

6110-122-0001--For localassistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.40.090--Specialized Secondary Programs, pursuant to Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code	$4,462,000
Provisions:	

1. Of the funds appropriated in this item, $1,500,000 shall be allocated to Specialized Secondary Programs established pursuant to Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code prior to the 1991-92 fiscal year that operate in conjunction with the California State University.
2. Of the funds appropriated in this item, $64,000 is for the purpose of providing an adjustment for increase in average daily attendance at a rate of 1.47 percent and $62,000 is for the purpose of providing a cost−of−living adjustment at a rate of 1.41 percent.

SEC. 41. Item 6110-186-0001 of Section 2.00 of Chapter 50 of the Statutes of 1999 is amended to read:

6110-186-0001--For local assistance, Department of Education (Proposition 98), for transfer by the Controller to the Instructional Materials Fund, Program 20.20.020.001--Instructional Materials, Kindergarten and Grades 1−8 125,946,000

Provisions:

2. Of the amount appropriated in this item, $1,799,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 1.47 percent and $1,751,000 is for the purpose of providing a cost−of−living adjustment (COLA) at a rate of 1.41 percent for instructional materials for kindergarten and grades 1 to 8, inclusive.

SEC. 42. Item 6110-495 of Section 2.06 of Chapter 50 of the Statutes of 1999 is amended to read:

6110−495—Reversion, Department of Education, Proposition 98. The following amounts shall revert to the Proposition 98 Reversion Account:

1. $43,404,000 from Item 6110−295−0001, Schedule 19, of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998), Mandates.

2. $50,000,000 from Section 39 of Chapter 204 of the Statutes of 1996.
3. $15,000,000 from Item 6110−212−0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998), High−Risk Youth Education and Public Safety Program.
4. $10,000,000 from Item 6110−112−0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998).
5. $2,000,000 from the amount appropriated for the Pilot Program Single Gender Academies (Ch. 3.1 (commencing with Sec. 58520), Pt. 31, Ed. C.) pursuant to Section 27 of Chapter 204 of the Statutes of 1996.
6. $5,000,000 from the amount appropriated for the Academic Improvement and Achievement Act (Ch. 12 (commencing with Sec. 11020, Pt. 7 Ed. C.) pursuant to Section 2 of Chapter 803 of the Statutes of 1998.
7. $30,000,000 from Item 6110−232−0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998).

SEC. 42.5. Item 6110-498 of Section 2.00 of Chapter 50 of the Statutes of 1999 is amended to read:

6110-498--Reversion (Proposition 98). Department of Education. The following amounts shall revert to the Proposition 98 Reversion Account:

(1) $3,999,999 from Section 6 of Chapter 975 of the Statutes of 1995, as reappropriated by Item 6110−490 of Chapter 282 of the Statutes of 1997, and subdivision (a) of Section 57 of Chapter 330 of the Statutes of 1998.
(2) $6,000,000 from subdivision (d) of Section 41 of Chapter 299 of the Statutes of 1997, as reappropriated by subdivision (b) of Section 57 of Chapter 330 of the Statutes of 1998.
(3) $1,000,000 from Schedule (b) of Item 6110−113−0001 of Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997).
(4) $1,002,000 from Schedule (b) of Item 6110−113−0001 of Section 2.00 of the Budget Act of 1998 (Ch. 324, Stats. 1998).

SEC. 43. Section 6 of the Chapter 152 of the Statutes of 1999 is amended to read:

Sec. 6. The unencumbered balance as of June 30, 1999, of the funds appropriated by Item 6110-156-0001 of Section 2.00 of the Budget Act of 1997 (Chapter 282 of the Statutes of 1997) is hereby reappropriated to the Superintendent of Public Instruction for allocation to school districts on a one-time basis for the purpose of providing school districts an opportunity to apply for additional authorized units of adult education average daily attendance or funding to support the development of site management information systems. Notwithstanding the provisions of Section 52616 and 52616.23 of the Education Code, or any other provision of law, funds allocated pursuant to this section shall not be included in the ongoing base funding of individual adult education programs.

SEC. 44. If Assembly Bill 15 of the 1999–2000 Regular Session is chaptered and adds Section 39831.5 to the Education Code, Section 39831.5, as added by this bill, shall not become operative.

SEC. 45. Section 11.5 of this bill incorporates changes to Section 38048 of the Education Code proposed by both this bill and AB 1573. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) this bill repeals Section 38048 of, and adds Section 39831.5 to, the Education Code, and (3) this bill is enacted after AB 1573, in which case Section 11.5 of this bill shall become operative and Section 39831.5, as added by Section 14 of this bill shall not become operative.

SEC. 46. Section 39831.5 of the Education Code, as added by Section 14 of this bill, shall not become operative if AB 1573 is chaptered and becomes operative and amends and renumbers Section 38048 of the Education Code.

SEC. 47. It is the intent of the Legislature that the changes made by Sections 20, 23, 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.7, and 23.8 of this act shall apply to the entire 1999–2000 fiscal year, regardless of the effective date of this act.

SEC. 48. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 647

An act to amend and renumber Section 38048 of the Education Code, and to amend Sections 22112 and 22454 of the Vehicle Code,

relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 5, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 38048 of the Education Code is amended and renumbered to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver and how to safely cross the street, highway, or private road, proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction which includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.
(3) Date of instruction.
(4) Names of supervising adults.
(5) Number of pupils participating.
(6) Grade levels of pupils.
(7) Subjects covered in instruction.
(8) Amount of time taken for instruction.
(9) Bus driver's name.
(10) Bus number.
(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

SEC. 1.5. Section 38048 of the Education Code is amended and renumbered to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.
(B) General rules of conduct at schoolbus loading zones.
(C) Red light crossing instructions.
(D) Schoolbus danger zone.
(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, how to safely cross the street, highway, or private road, instruction on the use of passenger restraint systems, as described in paragraph (3), proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Instruction on the use of passenger restraint systems shall include, but not be limited to, all of the following:

(A) Proper fastening and release of the passenger restraint system.

(B) Acceptable placement of passenger restraint systems on pupils.

(C) Times at which the passenger restraint systems should be fastened and released.

(D) Acceptable placement of the passenger restraint systems when not in use.

(4) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction that includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

SEC. 2. Section 22112 of the Vehicle Code is amended to read:

22112. (a) On approach to a schoolbus stop where pupils are loading or unloading from a schoolbus, the driver of the schoolbus shall activate an approved flashing amber light warning system, if the schoolbus is so equipped, beginning 200 feet before the schoolbus stop. The driver shall operate the flashing red signal lights and stop signal arm, as required on the schoolbus, at all times when the schoolbus is stopped for the purpose of loading or unloading pupils. The flashing red signal lights, amber warning lights, and stop signal arm system shall not be operated at any place where traffic is controlled by a traffic officer. The schoolbus flashing red signal lights, amber warning lights, and stop signal arm system shall not be operated at any other time.

(b) The driver shall stop to load or unload pupils only at a schoolbus stop designated for pupils by the school district

superintendent or authorized by the superintendent for school activity trips.

(c) When a schoolbus is stopped on a highway or private road for the purpose of loading or unloading pupils, at a location where traffic is not controlled by a traffic officer, the driver shall do all of the following:

(1) Check for approaching traffic in all directions and activate the flashing red light signal system and stop signal arm, as defined in Section 25257, if equipped with a stop signal arm.

(2) Before opening the door, ensure that the flashing red signal lights and stop signal arm are activated, and that it is safe to exit the schoolbus.

(d) When a schoolbus is stopped on a highway or private road for the purpose of loading or unloading pupils, at a location where traffic is not controlled by a traffic officer or official traffic control signal, the driver shall do all of the following:

(1) Escort all pupils in prekindergarten, kindergarten, or any of grades 1 to 8, inclusive, who need to cross the highway or private road. The driver shall use an approved hand-held "STOP" sign while escorting all pupils.

(2) Require all pupils to walk in front of the bus as they cross the highway or private road.

(3) Ensure that all pupils who need to cross the highway or private road have crossed safely, and that all other unloaded pupils and pedestrians are a safe distance from the schoolbus and it is safe to move before setting the schoolbus in motion.

(e) Except at a location where pupils are loading or unloading from a schoolbus and must cross a highway or private road upon which the schoolbus is stopped, the flashing red signal lights and stop signal arm requirements imposed by this section do not apply to a schoolbus driver at any of the following locations:

(1) Schoolbus loading zones on or adjacent to school grounds or during an activity trip, if the schoolbus is lawfully parked.

(2) Where the schoolbus is disabled due to mechanical breakdown.

(3) Where pupils require assistance to board or leave the schoolbus.

(4) Where the roadway surface on which the bus is stopped is partially or completely covered by snow or ice and requiring traffic to stop would pose a safety hazard.

(5) On a state highway with a posted speed limit of 55 miles per hour or higher where the schoolbus is completely off the main traveled portion of the highway.

(6) Any location determined by a school district, with the approval of the Department of the California Highway Patrol, to present a traffic or safety hazard.

(f) Notwithstanding subdivisions (a) to (d), inclusive, the Department of the California Highway Patrol may require the

activation of an approved flashing amber light warning system, if the schoolbus is so equipped, or the flashing red signal light and stop signal arm, as required on the schoolbus, at any location where the department determines that the activation is necessary for the safety of school pupils loading or unloading from a schoolbus.

SEC. 3. Section 22454 of the Vehicle Code is amended to read:

22454. (a) The driver of any vehicle, upon meeting or overtaking, from either direction, any schoolbus equipped with signs as required in this code, that is stopped for the purpose of loading or unloading any schoolchildren and displays a flashing red light signal and stop signal arm, as defined in paragraph (4) of subdivision (b) of Section 25257, if equipped with a stop signal arm, visible from front or rear, shall bring the vehicle to a stop immediately before passing the schoolbus and shall not proceed past the schoolbus until the flashing red light signal and stop signal arm, if equipped with a stop signal arm, cease operation.

(b) (1) The driver of a vehicle upon a divided highway or multiple-lane highway need not stop upon meeting or passing a schoolbus that is upon the other roadway.

(2) For the purposes of this subdivision, a multiple-lane highway is any highway that has two or more lanes of travel in each direction.

(c) (1) If a vehicle was observed overtaking a schoolbus in violation of subdivision (a), and the driver of the schoolbus witnessed the violation, the driver may, within 24 hours, report the violation and furnish the vehicle license plate number and description and the time and place of the violation to the local law enforcement agency having jurisdiction of the offense. That law enforcement agency shall issue a letter of warning prepared in accordance with paragraph (2) with respect to the alleged violation to the registered owner of the vehicle. The issuance of a warning letter under this paragraph shall not be entered on the driving record of the person to whom it is issued, but does not preclude the imposition of any other applicable penalty.

(2) The Attorney General shall prepare and furnish to every law enforcement agency in the state a form letter for purposes of paragraph (1), and the law enforcement agency may issue those letters in the exact form prepared by the Attorney General. The Attorney General may charge a fee to any law enforcement agency that requests a copy of the form letter to recover the costs of preparing and providing that copy.

(d) This section also applies to a roadway upon private property.

SEC. 4. The Department of the California Highway Patrol shall undertake a study of the effectiveness of requiring the drivers of schoolbuses to activate the buses' flashing red signal systems, and, if equipped, the stop signal arms. The report shall provide a detailed analysis on the impact of these systems and signal arms on reducing accidents, injuries, and deaths. Notwithstanding Section 7550.5 of the

Government Code, the department shall submit the results of the study to the Legislature on or before January 1, 2005.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 38048 of the Education Code proposed by both this bill and Assembly Bill 15. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends and renumbers Section 38048 of the Education Code, and (3) this bill is enacted after Assembly Bill 15, in which case Section 38048, as amended and renumbered by Section 1 of this bill, shall remain operative only until the operative date of AB 15, at which time Section 1.5 of this bill shall become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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.

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 ensure, as soon as possible, that schoolbus drivers are required to activate flashing amber warning lights in a manner that prevents schoolbus accidents and safeguards students and the public, it is necessary that this act take effect immediately.

CHAPTER 648

An act to amend and renumber Section 38048 of, and to add Section 38047.5 to, the Education Code, and to repeal and add Section 27316 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 38047.5 is added to the Education Code, to read:

38047.5. The State Board of Education shall adopt regulations to require a passenger in a schoolbus equipped with passenger restraint systems in accordance with Section 27316 of the Vehicle Code to use a passenger restraint system so that the passenger is properly restrained by that system.

SEC. 2. Section 38048 of the Education Code is amended and renumbered to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, instruction on the use of passenger restraint systems, as described in paragraph (3), proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Instruction on the use of passenger restraint systems shall include, but not be limited to, all of the following:

(A) Proper fastening and release of the passenger restraint system.

(B) Acceptable placement of passenger restraint systems on pupils.

(C) Times at which the passenger restraint systems should be fastened and released.

(D) Acceptable placement of the passenger restraint systems when not in use.

(4) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction that includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

SEC. 2.5. Section 38048 of the Education Code is amended and renumbered to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction that includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, how to safely cross the street, highway, or private road, instruction on the use of passenger restraint systems, as described in paragraph (3), proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated

next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Instruction on the use of passenger restraint systems shall include, but not be limited to, all of the following:

(A) Proper fastening and release of the passenger restraint system.

(B) Acceptable placement of passenger restraint systems on pupils.

(C) Times at which the passenger restraint systems should be fastened and released.

(D) Acceptable placement of the passenger restraint systems when not in use.

(4) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction that includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

SEC. 3. Section 27316 of the Vehicle Code is repealed.

SEC. 4. Section 27316 is added to the Vehicle Code, to read:

27316. (a) Unless specifically prohibited by the National Highway Transportation Safety Administration, all schoolbuses manufactured on or after January 1, 2002, and purchased or leased for use in California shall be equipped at all designated seating positions with a combination pelvic and upper torso passenger restraint system.

(b) For purposes of this section, a "passenger restraint system" is a restraint system that is in compliance with Federal Motor Vehicle Safety Standard 209, for a type 2 seatbelt assembly, and with Federal

Motor Vehicle Safety Standard 210, as those standards were in effect on the date the schoolbus was manufactured.

(c) No person, school district, or organization, with respect to a schoolbus equipped with passenger restraint systems pursuant to this section, may be charged for a violation of this code or any regulation adopted thereunder requiring a passenger to use a passenger restraint system, if a passenger on the schoolbus fails to use or improperly uses the passenger restraint system.

(d) It is the intent of the Legislature that, in implementing this section, school pupil transportation providers work to prioritize the allocation of schoolbuses purchased, leased, or contracted for after January 1, 2002, to ensure that elementary-level schoolbus passengers receive first priority for new schoolbuses whenever feasible.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 38048 of the Education Code proposed by both this bill and Assembly Bill 1573. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill either amends or amends and renumbers Section 38048 of the Education Code, and (3) this bill is enacted after Assembly Bill 1573, in which case Section 38048 of the Education Code, as amended by Assembly Bill 1573, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative and, Section 2 of this bill shall not become operative.

SEC. 6. 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.

CHAPTER 649

An act to amend Sections 6500, 6516.6, 6588, 53571, and 53583 of the Government Code, and to amend Section 97.3 of the Revenue and Taxation Code, relating to local governmental agencies.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 6500 of the Government Code is amended to read:

6500. As used in this article, "public agency" includes, but is not limited to, the federal government or any federal department or

agency, this state, another state or any state department or agency, a county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission of this state or another state, or any joint powers authority formed pursuant to this article by any of these agencies.

SEC. 2. Section 6516.6 of the Government Code is amended to read:

6516.6. (a) Notwithstanding any other provision of law, a joint powers agency established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase obligations of local agencies or make loans to local agencies, which moneys the local agencies are hereby authorized to borrow, to finance the local agencies' unfunded actuarial pension liability or to purchase, or to make loans to finance the purchase of, delinquent assessments or taxes levied on the secured roll by the local agencies, the county, or any other political subdivision of the state. Notwithstanding any other provision of law, including Section 53854, the local agency obligations or loans, if any, shall be repaid in the time, manner and amounts, with interest, security, and other terms as agreed to by the local agency and the joint powers authority.

(b) Notwithstanding any other provision of law, a joint powers authority established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase or acquire, by sale, assignment, pledge, or other transfer, any or all right, title, and interest of any local agency in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency and placed for collection on the secured, unsecured, or supplemental property tax rolls. Local agencies, including, cities, counties, cities and counties, school districts, redevelopment agencies, and all other special districts that are authorized by law to levy property taxes on the county tax rolls, are hereby authorized to sell, assign, pledge, or otherwise transfer to a joint powers authority any or all of their right, title, and interest in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency for collection on the secured, unsecured, or supplemental property tax rolls in accordance with the terms and conditions that may be set forth in an agreement with a joint powers authority.

(c) Notwithstanding Division 1 (commencing with Section 50) of the Revenue and Taxation Code, upon any transfer authorized in subdivision (b), the following shall apply:

(1) A local agency shall be entitled to timely payment of all delinquent taxes, assessments, and other receivables collected on its behalf on the secured, unsecured, and supplemental tax rolls, along with all penalties, interest, costs, and other charges thereon, no later than 30 calendar days after the close of the preceding monthly or four week accounting period during which the delinquencies were paid by or on account of any property owner.

(2) Upon its receipt of the delinquent taxes, assessments, and receivables that it had agreed to be transferred, a local agency shall pay those amounts, along with all applicable penalties, interest, costs, and other charges, to the joint powers authority in accordance with the terms and conditions that may be agreed to by the local agency and the joint powers authority.

(3) The joint powers authority shall be entitled to assert all right, title, and interest of the local agency in the enforcement and collection of the delinquent taxes, assessments, and receivables, including without limitation, its lien priority, its right to receive the proceeds of delinquent taxes, assessments, and receivables, and its right to receive all penalties, interest, administrative costs, and any other charges, including attorney fees and costs, if otherwise authorized by law to be collected by the local agency.

(d) The powers conferred by this section upon joint powers authorities and local agencies shall be complete, additional, and cumulative to all other powers conferred upon them by law. Except as otherwise required by this section, the agreements authorized by this section need not comply with the requirements of any other laws applicable to the same subject matter.

(e) An action to determine the validity of any bonds issued, any joint powers agreements entered into, any related agreements, including, without limitation, any bond indenture or any agreements relating to the sale, assignment, or pledge entered into by a joint powers authority or a local agency, the priority of any lien transferred in accordance with this section, and the respective rights and obligations of any joint powers authority and any party with whom the joint powers authority may contract pursuant to this chapter, may be brought by the joint powers authority 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.

(f) This section shall not be construed to affect the manner in which an agency participates in or withdraws from the alternative distribution method established by Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code.

SEC. 3. Section 6588 of the Government Code is amended to read:

6588. In addition to other powers specified in an agreement pursuant to Article 1 (commencing with Section 6500) and Article 2

(commencing with Section 6540), the authority may do any or all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name.

(c) Issue bonds, including, at the option of the authority, bonds bearing interest, to pay the cost of any public capital improvement, working capital, or liability or other insurance program. In addition, for any purpose for which an authority may execute and deliver or cause to be executed and delivered certificates of participation in a lease or installment sale agreement with any public or private entity, the authority, at its option, may issue or cause to be issued bonds, rather than certificates of participation, and enter into a loan agreement with the public or private entity.

(d) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this article.

(e) As provided by applicable law, employ and compensate bond counsel, financial consultants, and other advisers determined necessary by the authority in connection with the issuance and sale of any bonds.

(f) Contract for engineering, architectural, accounting, or other services determined necessary by the authority for the successful development of a public capital improvement.

(g) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land-use, recreation, and environmental experts employed by any sponsor or participant if the authority determines those services are necessary for the successful development of public capital improvements.

(h) Take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state that the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

(i) Receive and accept from any source, loans, contributions, or grants, in either money, property, labor, or other things of value, for, or in aid of, the construction financing, or refinancing of public capital improvement, or any portion thereof or for the financing of working capital or insurance programs, or for the payment of the principal of and interest on bonds if the proceeds of those bonds are used for one or more of the purposes specified in this section.

(j) Make secured or unsecured loans to any local agency in connection with the financing of capital improvement projects, working capital or insurance programs in accordance with an agreement between the authority and the local agency. However, no loan shall exceed the total cost of the public capital improvements, working capital or insurance needs of the local agency as determined by the local agency and by the authority.

(k) Make secured or unsecured loans to any local agency in accordance with an agreement between the authority and the local agency to refinance indebtedness incurred by the local agency in connection with public capital improvements undertaken and completed.

(*l*) Mortgage all or any portion of its interest in public capital improvements and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(m) Assign or pledge all or any portion of its interests in mortgages, deeds of trust, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible, of a local agency to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds issued to finance public capital improvements. The pledge of moneys, revenues, accounts, contract rights, or rights to payment of any kind made by or to the authority pursuant to the authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of the pledgees and successors thereto, against all parties irrespective of whether the parties have notice of the claim.

(n) Lease the public capital improvements being financed to a local agency, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease; include in any lease provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority; purchase or sell by an installment agreement or otherwise any or all of the public capital improvements; or, upon payment of all the indebtedness incurred by the authority for the financing or refinancing of the public capital improvements, the authority may convey any or all of the project to the lessee or lessees.

(o) Charge and apportion to local agencies that benefit from its services the administrative costs and expenses incurred in the exercise of the powers authorized by this article. These fees shall be set at a rate sufficient to recover, but not exceed, the authority's costs of issuance and administration. The fee charged to each local obligation acquired by the pool shall not exceed that obligation's proportionate share of those costs. The level of these fees shall be disclosed to the California Debt Advisory Commission pursuant to Section 6599.1.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States or of the state, or any private company, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this article.

(q) Notwithstanding any other provision of this article, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a local agency; and assign any insurance or guarantee that acts as security for the authority's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable to carry out any power authorized by this article.

(s) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds.

(t) At the request of affected local agencies, combine and pledge revenues to public capital improvements for repayment of one or more series of bonds issued pursuant to this article.

(u) Delegate to any of its individual parties or other responsible individuals the power to act on its behalf subject to its general direction, guidelines, and oversight.

(v) Purchase, with the proceeds of its bonds or its revenue, bonds issued by any local agency at public or negotiated sale. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority.

(w) Set any other terms and conditions on any purchase or sale pursuant to this section as it deems by resolution to be necessary, appropriate, and in the public interest, in furtherance of the purposes of this article.

SEC. 4. Section 53571 of the Government Code is amended to read:

53571. It is hereby declared that it is a public purpose for a local agency to issue bonds for the purpose of refunding any revenue bonds of the local agency or any revenue bonds of a member of the local agency pursuant to Article 11 (commencing with Section 53580), whether due or not due, or that have or that may hereafter become payable at the option of the local agency, by consent of the bondholders, or by any lawful means.

Any refunding bonds may be outstanding at the same time as the revenue bonds for which the refunding bonds are issued, subject to any contractual limitations created in the proceedings for the issuance of the revenue bonds, and may be on a parity with, or subordinate to, the revenue bonds.

The refunding bonds may be issued pursuant to Article 11 (commencing with Section 53580) or under any applicable revenue bond law, including, but not limited to, the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300)), the Parking Law of 1949 (Part 2 (commencing with Section 32500) of Division 18

of the Streets and Highways Code), the Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code), the joint exercise of powers provisions contained in Article 1 (commencing with Section 6500) and Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1, and the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), and shall be deemed issued for a valid public purpose and a proper bond purpose under Article 11 (commencing with Section 53580) or the applicable revenue bond law, and interest upon the refunding bonds or the bonds to be refunded from the date thereof to the date of payment of the bonds to be refunded or the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds may be paid from the proceeds of the refunding bonds or the investment of the proceeds.

SEC. 5. Section 53583 of the Government Code is amended to read:

53583. (a) Any local agency may issue bonds pursuant to this article or any revenue bond law under which the local agency is otherwise authorized to issue bonds for the purpose of refunding any revenue bonds of the local agency or, if the local agency is a joint powers authority, any revenue bonds of a member local agency, upon authorization by resolution of that member of the joint powers authority.

(b) The proceedings of any local agency authorizing the issuance of any refunding bonds may provide all of the following for those bonds:

(1) The form of the bonds to be issued as serial bonds, term bonds, or installment bonds, or any combination thereof.

(2) The date or dates to be borne by the bonds.

(3) The time or times of maturity of the bonds.

(4) The interest, fixed or variable, to be borne by the bonds.

(5) The time or times that the bonds shall be payable.

(6) The denominations, form, and the registration privileges of the bonds.

(7) The manner of execution of the bonds.

(8) The place or places the bonds are payable.

(9) The terms of redemption.

(10) Any other terms and conditions determined necessary by the local agency.

(c) (1) The refunding bonds may be sold at public or private sale or on a negotiated sale basis and at the prices, above or below par, as the local agency determines.

(2) (A) If the local agency determines to sell the bonds at public sale, the local agency shall advertise the bonds for sale and invite sealed bids on the bonds by publication of a notice once at least 10 days before the date of the public sale in a newspaper of general circulation circulated within the boundaries of each local agency to

be aided by the project to be financed by the issuance of the bonds. If one or more satisfactory bids are received pursuant to the notice, the bonds shall be awarded to the highest responsible bidder. If no bids are received or if the local agency determines that the bids received are not satisfactory as to price or responsibility of the bidders, the local agency may reject all bids received, if any, and either readvertise or sell the bonds at private sale or on a negotiated sale basis.

(B) If the local agency determines to sell the bonds at private sale or on a negotiated sale basis, the local agency shall send a written statement, within two weeks after the bonds are sold, to the California Debt Advisory Commission explaining the reasons why the local agency determined to sell the bonds at private sale or on a negotiated sale basis instead of at public sale.

SEC. 6. Section 97.3 of the Revenue and Taxation Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the "May Revision of the 1993–94 Governor's Budget" shall be determined by reference to the document entitled "Estimated County Property Tax Transfers Under Governor's May Revision Proposal," published by the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1, and a county's Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any

school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1, and a county's Educational Revenue Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased

by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars ($104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a "qualifying community services district" means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine

an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of "Fire Protection," that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase "amount of revenue allocated to that special district" means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount

by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue

between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education, that is not an excess tax school entity until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent

student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter , if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this subparagraph shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code.

(ii) For the 1995–96 fiscal year only, this subparagraph shall have no application to the County of Mono and the amount allocated pursuant to this subparagraph in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to this subparagraph and subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts

of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 7. 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.

CHAPTER 650

An act to amend Sections 69612, 69612.5, 69613, 69613.1, 69615.4, and 69615.6 of, and to repeal Section 69613.55 of, the Education Code, relating to teacher training.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 69612 of the Education Code is amended to read:

69612. (a) (1) The Legislature hereby recognizes that there is a growing shortage of high quality classroom teachers, and that there is a need for qualified teachers from throughout California. The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession. The Legislature also recognizes that many school districts have difficulty recruiting and retaining high quality teachers for pupils with special needs and for schools serving rural areas or large populations of students from low-income and linguistic minority families.

(2) The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and

grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education. The availability of financial aid and loan repayment assistance are important considerations for many students, especially economically disadvantaged students, in making their educational decisions.

(b) It is the intent of the Legislature that the Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving rural areas, large populations of students from low-income families, or both. It is further the intent of the Legislature in enacting this article to do all of the following:

(1) Provide outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(2) Provide persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(3) Identify subject matter areas in which there are shortages of teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(4) Identify schools serving rural areas, large populations of students from low-income families, or both, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

SEC. 1.5. Section 69612 of the Education Code is amended to read:

69612. (a) (1) The Legislature hereby recognizes that there is a growing shortage of high quality classroom teachers, and that there is a need for qualified teachers throughout California. The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession. The Legislature also recognizes that many school districts have difficulty recruiting and retaining high-quality teachers for pupils with special needs, for schools serving rural areas or large populations of students from low-income and linguistic minority families, and schools with a high percentage of teachers holding emergency permits.

(2) The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education. The availability of financial aid and loan repayment assistance are important considerations for many students, especially

economically disadvantaged students, in making their educational decisions.

(b) It is the intent of the Legislature that the Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of students from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics. It is further the intent of the Legislature in enacting this article to do all of the following:

(1) Provide outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(2) Provide persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(3) Identify subject matter areas or schools in which there are shortages of fully credentialed teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(4) Identify schools serving rural areas, schools serving large populations of students from low-income families, or both, and schools with a high percentage of teachers holding emergency permits, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

SEC. 2. Section 69612.5 of the Education Code is amended to read:

69612.5. It is the intent of the Legislature that, commencing with the 1985–86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families and within these categories, commencing with the 2000–01 school year, those persons who agree to teach in schools serving rural areas.

SEC. 2.5. Section 69612.5 of the Education Code is amended to read:

69612.5. It is the intent of the Legislature that, commencing with the 1985–86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families and within these categories, commencing with the 2000–01

school year, those persons who agree to teach in schools serving rural areas, or commencing with the 2000–01 school year, in schools with a high percentage of teachers holding emergency permits.

SEC. 3. Section 69613 of the Education Code is amended to read:

69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c).

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) In order to meet the costs associated with obtaining a baccalaureate degree, or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach in a public school in this state for at least four consecutive academic years after obtaining a teaching credential.

(c) (1) The applicant holds a baccalaureate degree and agrees to participate in a teacher trainee program or teacher internship program, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential, or is a noncredentialed teaching paraprofessional, as described in Section 44323, who will continue to serve as a teaching paraprofessional while completing the necessary coursework for a California teaching credential.

(2) (A) The applicant is enrolled in, or has been admitted to, a participating institution and agrees to maintain satisfactory academic progress in an academic program leading to a baccalaureate degree or in a program of professional preparation that has been approved by the Commission on Teacher Credentialing, and the applicant satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

(B) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this subdivision to participate in the loan assumption program set forth in this article.

(d) Sixty percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) The remaining 40 percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the Perkins Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second, third, or fourth year of teaching.

(f) Within the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year thereafter, a proportional number of warrants shall be issued to applicants who agree to provide classroom instruction in a school serving a rural area.

(g) A person participating in the program pursuant to this section shall not receive more than one warrant.

(h) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.

SEC. 3.5. Section 69613 of the Education Code is amended to read:

69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c).

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) In order to meet the costs associated with obtaining a baccalaureate degree, or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach in a public school in this state for at least four consecutive academic years after obtaining a teaching credential.

(c) (1) The applicant holds a baccalaureate degree and agrees to participate in a teacher trainee program or teacher internship program, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential, or is a noncredentialed teaching paraprofessional, as described in Section 44323, who will continue to serve as a teaching paraprofessional while completing the necessary coursework for a California teaching credential.

(2) (A) The applicant is enrolled in, or has been admitted to, a participating institution and agrees to maintain satisfactory academic progress in an academic program leading to a baccalaureate degree or in a program of professional preparation that has been approved by the Commission on Teacher Credentialing, and the applicant satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

(B) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this subdivision to participate in the loan assumption program set forth in this article.

(d) Sixty percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be

awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) The remaining 40 percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the Perkins Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second, third, or fourth year of teaching.

(f) (1) Within the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year thereafter, a proportional number of warrants shall be issued to applicants who agree to provide classroom instruction in a school serving a rural area.

(2) Notwithstanding the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year thereafter, the number of warrants issued to applicants who agree to teach in schools with a high percentage of teachers holding emergency permits shall be determined and funded by the Legislature in the annual Budget Act.

(g) A person participating in the program pursuant to this section shall not receive more than one warrant.

(h) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.

SEC. 4. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the Student Aid Commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary.

(b) A list of schools that serve a large population of students from low-income families, as designated for purposes of the Perkins Loan Program, or according to other standards the superintendent deems appropriate.

(c) Commencing January 31, 2000, and every January 1, thereafter, a list of schools serving rural areas. The list shall be

established according to the standards deemed appropriate by the Superintendent of Public Instruction.

SEC. 4.5. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the Student Aid Commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary.

(b) A list of schools that serve a large population of students from low-income families, as designated for purposes of the Perkins Loan Program, or according to other standards the superintendent deems appropriate.

(c) (1) Commencing January 31, 2000, and every January 1, thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the Superintendent of Public Instruction.

(2) Commencing January 31, 2000, and every January 1, thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the Superintendent of Public Instruction.

SEC. 5. Section 69613.55, as added by Chapter 545 of the Statutes of 1998, is repealed.

SEC. 6. Section 69615.4 of the Education Code is amended to read:

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of warrants awarded.

(b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.

(d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.

(e) The number of warrants awarded to applicants who agree to teach in schools serving rural areas.

(f) The number of warrants that are redeemed by the initial recipients.

SEC. 6.5. Section 69615.4 of the Education Code is amended to read:

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of warrants awarded.

(b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.

(d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.

(e) (1) The number of warrants awarded to applicants who agree to teach in schools serving rural areas.

(2) The number of warrants awarded to applicants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(f) The number of warrants that are redeemed by the initial recipients.

SEC. 7. Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the commission shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year the commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, the following shall apply:

(1) The commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(2) Notwithstanding the limitation of 5,500 warrants set forth in subdivision (c), the commission shall issue warrants in a quantity determined by the Legislature in the annual Budget Act for the assumption of student loans for applicants who agree to teach in schools in rural areas. Priority for the issuance of the warrants shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(3) Up to 100 of the 5,500 warrants issued pursuant to this subdivision shall be issued for the assumption of student loans for applicants who agree to teach in school districts serving rural areas.

(e) The commission may recommend an annual limit under subdivision (d) that is higher than 5,500 and submit that recommendation to the Legislative Analyst for review and comment. It is the intent of the Legislature that the amount appropriated for purposes of this section in the Budget Act reflect consideration of the

information provided by the commission and the Legislative Analyst under this subdivision.

(f) The issuance of warrants shall be subject to funding to be provided in the Budget Act for each fiscal year.

SEC. 7.5. Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the commission shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year the commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, the following shall apply:

(1) The commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(2) (A) Notwithstanding the limitation of 5,500 warrants set forth in subdivision (c), the commission shall issue warrants in a quantity determined by the Legislature in the annual Budget Act for the assumption of student loans for applicants who agree to teach in schools in rural areas. Priority for the issuance of the warrants shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(B) Notwithstanding the limitation of 5,500 warrants set forth in subdivision (c), the commission shall issue warrants in a quantity determined by the Legislature in the annual Budget Act for the assumption of student loans for applicants who agree to teach in schools with a high percentage of teachers holding emergency permits. Priority for the issuance of the warrants shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(3) Up to 100 of the 5,500 warrants issued pursuant to this subdivision shall be issued for the assumption of student loans for applicants who agree to teach in school districts serving rural areas.

(e) The commission may recommend an annual limit under subdivision (d) that is higher than 5,500 and submit that recommendation to the Legislative Analyst for review and comment. It is the intent of the Legislature that the amount appropriated for purposes of this section in the Budget Act reflect consideration of the information provided by the commission and the Legislative Analyst under this subdivision.

(f) The issuance of warrants shall be subject to funding to be provided in the Budget Act for each fiscal year.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 69612 of the Education Code, proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69612 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 1 of this bill shall not become operative.

SEC. 9. Section 2.5 of this bill incorporates amendments to Section 69612.5 of the Education Code proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69612.5 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 2 of this bill shall not become operative.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 69613 of the Education Code proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69613 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 3 of this bill shall not become operative.

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 69613.1 of the Education Code, proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69613.1 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 4 of this bill shall not become operative.

SEC. 12. Section 6.5 of this bill incorporates amendments to Section 69615.4 of the Education Code, proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69615.4 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 6 of this bill shall not become operative.

SEC. 13. Section 7.5 of this bill incorporates amendments to Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, proposed by both this bill and SB 131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69615.6 of the Education Code, and (3) this bill is enacted after SB 131, in which case Section 7 of this bill shall not become operative.

CHAPTER 651

An act to amend Sections 69612, 69612.5, 69613, 69613.1, 69615.4, and 69615.6 of the Education Code, relating to teacher training.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 69612 of the Education Code is amended to read:

69612. (a) (1) The Legislature hereby recognizes that there is a growing shortage of high quality classroom teachers and that there is a need for qualified teachers throughout California. The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession. The Legislature also recognizes that many school districts have difficulty recruiting and retaining high-quality teachers for pupils with special needs, for schools serving large populations of students from low-income and linguistic minority families, and schools with a high percentage of teachers holding emergency permits.

(2) The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education. The availability of financial aid and loan repayment assistance are important considerations for many students, especially economically disadvantaged students, in making their educational decisions.

(b) It is the intent of the Legislature that the Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of students from low-income families, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics. It is further the intent of the Legislature in enacting this article to do all of the following:

(1) Provide outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(2) Provide persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(3) Identify subject matter areas or schools in which there are shortages of fully credentialed teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(4) Identify schools serving large populations of students from low-income families and schools with a high percentage of teachers holding emergency permits, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

SEC. 1.5. Section 69612 of the Education Code is amended to read:

69612. (a) (1) The Legislature hereby recognizes that there is a growing shortage of high-quality classroom teachers, and that there is a need for qualified teachers throughout California. The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession. The Legislature also recognizes that many school districts have difficulty recruiting and retaining high-quality teachers for pupils with special needs, for schools serving rural areas or large populations of students from low-income and linguistic minority families, and schools with a high percentage of teachers holding emergency permits.

(2) The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education. The availability of financial aid and loan repayment assistance are important considerations for many students, especially economically disadvantaged students, in making their educational decisions.

(b) It is the intent of the Legislature that the Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of students from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics. It is further the intent of the Legislature in enacting this article to do all of the following:

(1) Provide outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(2) Provide persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(3) Identify subject matter areas or schools in which there are shortages of fully credentialed teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(4) Identify schools serving rural areas, schools serving large populations of students from low-income families, or both, and schools with a high percentage of teachers holding emergency permits, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

SEC. 2. Section 69612.5 of the Education Code is amended to read:

69612.5. It is the intent of the Legislature that, commencing with the 1985–86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families or, commencing with the 2000–01 school year, in schools with a high percentage of teachers holding emergency permits.

SEC. 2.5. Section 69612.5 of the Education Code is amended to read:

69612.5. It is the intent of the Legislature that, commencing with the 1985–86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families and within these categories, commencing with the 2000–01 school year, those persons who agree to teach in schools serving rural areas, or commencing with the 2000–01 school year, in schools with a high percentage of teachers holding emergency permits.

SEC. 3. Section 69613 of the Education Code is amended to read:

69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c).

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) In order to meet the costs associated with obtaining a baccalaureate degree or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach in a public school in this state for at least four consecutive academic years after obtaining a teaching credential.

(c) (1) The applicant holds a baccalaureate degree and agrees to participate in a teacher trainee program or teacher internship program, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential, or is a noncredentialed teaching paraprofessional, as described in Section 44323, who will continue to serve as a teaching paraprofessional while completing the necessary coursework for a California teaching credential.

(2) (A) The applicant is enrolled in, or has been admitted to, a participating institution and agrees to maintain satisfactory academic progress in an academic program leading to a baccalaureate degree or in a program of professional preparation that has been approved by the Commission on Teacher Credentialing, and the applicant satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

(B) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this subdivision to participate in the loan assumption program set forth in this article.

(d) Sixty percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) The remaining 40 percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the Perkins Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second, third, or fourth year of teaching.

(f) Notwithstanding the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year

thereafter, the number of warrants issued to applicants who agree to teach in schools with a high percentage of teachers holding emergency permits shall be determined and funded by the Legislature in the annual Budget Act.

(g) A person participating in the program pursuant to this section shall not receive more than one warrant.

(h) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.

SEC. 3.5. Section 69613 of the Education Code is amended to read:

69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c).

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) In order to meet the costs associated with obtaining a baccalaureate degree, or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach in a public school in this state for at least four consecutive academic years after obtaining a teaching credential.

(c) (1) The applicant holds a baccalaureate degree and agrees to participate in a teacher trainee program or teacher internship program, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential, or is a noncredentialed teaching paraprofessional, as described in Section 44323, who will continue to serve as a teaching paraprofessional while completing the necessary coursework for a California teaching credential.

(2) (A) The applicant is enrolled in, or has been admitted to, a participating institution and agrees to maintain satisfactory academic progress in an academic program leading to a baccalaureate degree or in a program of professional preparation that has been approved by the Commission on Teacher Credentialing, and the applicant satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

(B) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this subdivision to participate in the loan assumption program set forth in this article.

(d) Sixty percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) The remaining 40 percent of the warrants distributed each year pursuant to subdivisions (b) and (c) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the Perkins Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second, third, or fourth year of teaching.

(f) (1) Within the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year thereafter, a proportional number of warrants shall be issued to applicants who agree to provide classroom instruction in a school serving a rural area.

(2) Notwithstanding the percentages set forth in subdivisions (d) and (e), commencing with the 2000–01 school year, and every year thereafter, the number of warrants issued to applicants who agree to teach in schools with a high percentage of teachers holding

emergency permits shall be determined and funded by the Legislature in the annual Budget Act.

(g) A person participating in the program pursuant to this section shall not receive more than one warrant.

(h) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.

SEC. 4. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the Student Aid Commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary.

(b) A list of schools that serve a large population of students from low-income families, as designated for purposes of the Perkins Loan Program, or according to other standards the superintendent deems appropriate.

(c) Commencing January 31, 2000, and every January 1, thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the Superintendent of Public Instruction.

SEC. 4.5. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the Student Aid Commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary.

(b) A list of schools that serve a large population of students from low-income families, as designated for purposes of the Perkins Loan Program, or according to other standards the superintendent deems appropriate.

(c) (1) Commencing January 31, 2000, and every January 1, thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the Superintendent of Public Instruction.

(2) Commencing January 31, 2000, and every January 1, thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the Superintendent of Public Instruction.

SEC. 5. Section 69615.4 of the Education Code is amended to read:

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of warrants awarded.

(b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.

(d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.

(e) The number of warrants awarded to applicants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(f) The number of warrants that are redeemed by the initial recipients.

SEC. 5.5. Section 69615.4 of the Education Code is amended to read:

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of warrants awarded.

(b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.

(d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.

(e) (1) The number of warrants awarded to applicants who agree to teach in schools serving rural areas.

(2) The number of warrants awarded to applicants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(f) The number of warrants that are redeemed by the initial recipients.

SEC. 6. Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the commission shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year, the commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, the following shall apply:

(1) The commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(2) Notwithstanding the limitation of 5,500 warrants set forth in paragraph (1), the commission shall issue warrants, in a quantity determined by the Legislature in the annual Budget Act, for the assumption of student loans for applicants who agree to teach in schools with a high percentage of teachers holding emergency permits. Priority shall be given to applicants who are recipients of federally subsidized loans or other need-based loans as determined by the commission.

(3) Up to 100 of the 5,500 warrants issued pursuant to this subdivision, shall be issued for the assumption of student loans for applicants who agree to teach in school districts serving rural areas.

(e) The commission may recommend an annual limit under subdivision (d) that is higher than 5,500 and submit that recommendation to the Legislative Analyst for review and comment. It is the intent of the Legislature that the amount appropriated for purposes of this section in the Budget Act reflect consideration of the information provided by the commission and the Legislative Analyst under this subdivision.

(f) The issuance of warrants shall be subject to funding to be provided in the Budget Act for each fiscal year.

SEC. 6.5. Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, is amended to read:

69615.6. (a) Beginning no later than the 1986–87 school year, and each school year thereafter up to and including the 1997–98 school year, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998–99 school year, the commission shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999–2000 school year the commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000–01 school year, and each school year thereafter, the following shall apply:

(1) The commission shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(2) (A) Notwithstanding the limitation of 5,500 warrants set forth in subdivision (c), the commission shall issue warrants in a quantity determined by the Legislature in the annual Budget Act for the

assumption of student loans for applicants who agree to teach in schools in rural areas. Priority for the issuance of the warrants shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(B) Notwithstanding the limitation of 5,500 warrants set forth in subdivision (c), the commission shall issue warrants in a quantity determined by the Legislature in the annual Budget Act for the assumption of student loans for applicants who agree to teach in schools with a high percentage of teachers holding emergency permits. Priority for the issuance of the warrants shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the commission.

(3) Up to 100 of the 5,500 warrants issued pursuant to this subdivision shall be issued for the assumption of student loans for applicants who agree to teach in school districts serving rural areas.

(e) The commission may recommend an annual limit under subdivision (d) that is higher than 5,500 and submit that recommendation to the Legislative Analyst for review and comment. It is the intent of the Legislature that the amount appropriated for purposes of this section in the Budget Act reflect consideration of the information provided by the commission and the Legislative Analyst under this subdivision.

(f) The issuance of warrants shall be subject to funding to be provided in the Budget Act for each fiscal year.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 69612 of the Education Code proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69612 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 1 of this bill shall not become operative.

SEC. 8. Section 2.5 of this bill incorporates amendments to Section 69612.5 of the Education Code, proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69612.5 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 2 of this bill shall not become operative.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 69613 of the Education Code proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69613 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 3 of this bill shall not become operative.

SEC. 10. Section 4.5 of this bill incorporates amendments to Section 69613.1 of the Education Code, proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69613.1 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 4 of this bill shall not become operative.

SEC. 11. Section 5.5 of this bill incorporates amendments to Section 69615.4 of the Education Code proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69615.4 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 5 of this bill shall not become operative.

SEC. 12. Section 6.5 of this bill incorporates amendments to Section 69615.6 of the Education Code, as amended by Chapter 72 of the Statutes of 1999, proposed by both this bill and AB 31. It shall only become operative if (1) both bills are enacted and become effective on January 1, 2000, (2) each bill amends Section 69615.6 of the Education Code, and (3) this bill is enacted after AB 31, in which case Section 6 of this bill shall not become operative.

CHAPTER 652

An act to amend Section 30 of the Business and Professions Code, to amend Section 708.780 of the Code of Civil Procedure, to amend Sections 5246, 7552.5, 7571, 7572, 7575, 10003, 10004, 10005, 17430, 17506, 17508, and 17520 of, and to add Sections 3680.5, 5005, 7551.5, 10013, 10014, 10015, 17405, 17407, and 17509 to, the Family Code, and to amend Sections 11350.6, 11355, 11478.5, and 11478.51 of, and to add Sections 11475.6, 11478.3, and 11478.52 to, the Welfare and Institutions Code, relating to child support, and making an appropriation therefor.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 30 of the Business and Professions Code is amended to read:

30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others.

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license or for renewal of a license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the entity is a partnership or social security number for all others.

(4) Type of license.

(5) Effective date of license or a renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the

identification of persons affected by state tax laws and for purposes of compliance with Section 11350.6 of the Welfare and Institutions Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 11350.6 of the Welfare and Institutions Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that each licensee provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, "licensee" means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

SEC. 1.5. Section 30 of the Business and Professions Code is amended to read:

30. (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that any licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others.

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license or for renewal of a license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.

(d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:

(1) Name.

(2) Address or addresses of record.

(3) Federal employer identification number if the entity is a partnership or social security number for all others.

(4) Type of license.
(5) Effective date of license or a renewal.
(6) Expiration date of license.
(7) Whether license is active or inactive, if known.
(8) Whether license is new or a renewal.

(e) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

(3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

(f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

(*l*) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance or renewal of the license require that each licensee provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, "licensee" means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

SEC. 2. Section 708.780 of the Code of Civil Procedure is amended to read:

708.780. (a) Filing of the abstract or certified copy of the judgment and the affidavit pursuant to this article creates a lien on the money owing and unpaid to the judgment debtor by the public entity in an amount equal to that which may properly be applied to the satisfaction of the money judgment under this article.

(b) When an affidavit is filed pursuant to subdivision (c) of Section 708.730, it shall apply to all claims for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, which the judgment debtor subsequently claims during a period one year after filing of the affidavit, or October 1 of the year following the filing of the affidavit, whichever occurs later, the same as if claims for these overpayments were filed by the judgment debtor with the appropriate state agency on the date the affidavit was filed.

(c) When a request is filed pursuant to subdivision (d) of Section 708.730 with the court, the clerk of the court shall issue a Notice of Support Arrearage. The clerk of the court shall issue the notice 30 days after the request was filed pursuant to subdivision (d) of Section 708.730 without a hearing if no objection has been raised by the judgment debtor pursuant to this subdivision. If an objection has been raised, the notice shall not be ordered until after a hearing. The notice shall contain the name of the person ordered to pay support and his or her social security number; the amount of the arrearage determined by the court; whether the arrearage is for child, spousal, or family support and the specific combination thereof; a statement of how the recipient may challenge the statement of arrearage; and the name, address, and social security number of the person to whom the arrearage is owed. Upon the clerk of the court issuing the Notice of Support Arrearage, a copy of the request, the affidavit, and the notice shall be served by the party who requested the court to issue the Notice of Support Arrearage upon the person ordered to pay support and the Controller. Service may be personal, in accordance with Section 1011, or by mail, in accordance with Section 1013.

Service upon the Controller shall be at the Controller's office in Sacramento.

The judgment debtor may object to the request or affidavit upon any of the following grounds: (1) there is an error in the amount of the arrearage stated in the affidavit; (2) the alleged judgment debtor is not the judgment debtor from whom the support is due; (3) the amount to be intercepted exceeds that allowable under federal law; (4) a default in payment of the support for 30 days has not occurred; or (5) other necessary factual allegations contained in the affidavit are erroneous.

Upon receipt of the Notice of Support Arrearage, the Controller shall take reasonable measures to deduct from any personal income tax refunds and lottery winnings owed and processed for payment to the judgment debtor and deposit with the court a warrant, subject to Sections 708.770 and 708.775, with service of a copy of the warrant upon the local child support agency of the county in which the support judgment is entered, payable to the court, the amount due the judgment creditor (after deducting an amount sufficient to reimburse the state for any amounts advanced to the judgment debtor or owed by the judgment debtor to the state) required to satisfy the money judgment as shown by the affidavit in full or to the greatest extent, and pay the balance thereof, if any, to the judgment debtor. At any hearing pursuant to Section 708.770, the judgment debtor may challenge the distribution of these funds on exemption or other grounds, including, but not limited to, an allegation that the judgment has been satisfied or that service was improper. The notice shall not apply to any money which is exempt by law from execution. The Controller shall determine the cost of enforcing the notice and may establish a notice filing fee not to exceed five dollars ($5).

Service of the Notice of Support Arrearage and of the request and affidavit pursuant to this subdivision creates a lien on the money owing and unpaid to the judgment debtor which shall become effective 30 days following service upon the Controller. This notice shall remain in effect for four years from the date of its issuance or until the arrearage for which the notice was issued is satisfied, whichever occurs first.

Any person who files a request with the court to issue a Notice of Support Arrearage pursuant to subdivision (d) of Section 708.730 shall notify the court and the Controller of any satisfaction of the arrearage after the Notice of Support Arrearage has been issued by the clerk of the court. The notice to the court and the Controller shall be filed with the court and the Controller and served upon the local child support agency of the county in which the support judgment is entered within 30 days of the satisfaction or discharge and shall show a partial or full satisfaction of the arrearage or any other resolution of the arrearage.

Upon filing and service, the Notice of Support Arrearage shall be of no force and effect.

The State Department of Social Services shall, upon request, inform the Legislature of the use and effect of this subdivision on or before December 31, 2001.

This subdivision shall become operative on January 1, 1996, and shall become inoperative on December 31, 2001.

(d) For purposes of this section, "support" means an obligation owing on behalf of a child, spouse, or family, or combination thereof.

SEC. 3. Section 3680.5 is added to the Family Code, to read:

3680.5. The local child support agency shall monitor child support cases and seek modifications, when needed.

SEC. 4. Section 5005 is added to the Family Code, to read:

5005. When the Attorney General is satisfied that reciprocal provisions will be made by a foreign jurisdiction for the establishment of support orders for obligees in California, or for enforcement of support orders made within this state, the Attorney General may declare the foreign jurisdiction to be a reciprocating state for purposes of establishing and enforcing support obligations. Any such declaration may be revoked by the Attorney General. Any such declaration may be reviewed by the court in an action brought to support a support order, or to enforce the order of a reciprocating jurisdiction.

SEC. 5. Section 5246 of the Family Code is amended to read:

5246. (a) This section applies only to Title IV-D cases where support enforcement services are being provided by a local child support agency.

(b) In lieu of an earnings assignment order, the local child support agency may serve on the employer a notice of assignment in the manner specified in Section 5232. A notice of assignment shall have the same force and effect as an earnings assignment order.

(c) The notice of assignment shall contain, at a minimum, the following information:

(1) The amount of current support ordered by the court.

(2) Any additional amount to be withheld and applied to arrearages.

(3) The date of the most recent support order.

(4) The name and address of the local child support agency to whom the support is to be paid or the Child Support Centralized Collection and Distribution Unit.

(5) The amount of arrearages and the date through which the arrearages have been calculated, and a statement as to whether or not the arrearages include interest.

(6) Instructions to the employer on how to comply with the notice of assignment.

(7) A written statement of the obligor's rights under the law to seek to quash or modify the notice of assignment, together with a blank form which the obligor can file with the court to request a hearing to modify or quash the assignment with instructions on how to file the form and obtain a hearing date.

(8) The toll-free telephone number of the local child support agency, as defined in Section 11400.1 of the Welfare and Institutions Code, for the employer to call if he or she has questions.

(d) If the underlying court order for support does not provide for an arrearage payment, or if an additional arrearage accrues after the date of the court order for support, the local child support agency may send a notice of assignment directly to the employer which specifies the updated arrearage amount and directs the employer to withhold an additional amount not to exceed 3 percent of the arrearage or fifty dollars ($50), whichever is greater, to be applied towards liquidation of the arrearages.

(e) Within 10 days of service of the notice of assignment, the employer shall deliver both of the following to the obligor:

(1) A copy of the notice of assignment.

(2) The form to request a hearing described in paragraph (7) of subdivision (c).

(f) If the obligor requests a hearing, a hearing date shall be scheduled within 20 days of the filing of the request with the court. The clerk of the court shall provide notice of the hearing to the local child support agency and the obligor no later than 10 days prior to the hearing.

(1) If at the hearing the obligor establishes that he or she is not the obligor or that there exists good cause or an alternative arrangement as provided in Section 5260, the court may order that service of the notice of assignment be quashed. If the court quashes service of the notice of assignment, the local child support agency shall notify the employer within 10 days.

(2) If the obligor contends at the hearing that the payment of arrearages at the rate specified in this section is excessive or that the total arrearages owing is incorrect, and if it is determined that payment of the arrearages at the rate specified in this section creates an undue hardship upon the obligor or that the withholding would exceed the maximum amount permitted by Section 1673(b) of Title 15 of the United States Code Annotated, the rate at which the arrearages must be paid shall be reduced to a rate that is fair and reasonable considering the circumstances of the parties and the best interest of the child. If it is determined at a hearing that the total amount of arrearages calculated is erroneous, the court shall modify the amount calculated to the correct amount. If the court modifies the total amount of arrearages owed or reduces the monthly payment due on the arrearages, the local child support agency shall serve the employer with an amended notice of assignment within 10 days.

(g) If an obligor's current support obligation has terminated by operation of law, the local child support agency may serve a notice of assignment on the employer which directs the employer to continue withholding from the obligor's earnings an amount not to exceed the current support order that was in effect or 3 percent of the total support arrearages including interest, whichever is greater,

until such time that the employer is notified by the local child support agency that the arrearages have been paid in full. The employer shall provide the obligor with the same documents as provided in subdivision (e). The obligor shall be entitled to the same rights to a hearing as specified in subdivision (f).

(h) The local child support agency shall retain a copy of the notice of assignment and shall file a copy with the court whenever a hearing concerning the notice of assignment is requested.

(i) Nothing in this section prohibits the local child support agency from seeking a payment on arrearages which is greater than the amount specified in this section. The local child support agency may seek a higher payment on arrearages by filing an ex parte application with the court.

(j) The local child support agency may transmit a notice of earnings assignment and other forms required by this section to the employer through electronic means.

SEC. 6. Section 7551.5 is added to the Family Code, to read:

7551.5. All hospitals, local child support agencies, welfare offices, and family courts shall facilitate genetic tests for purposes of enforcement of this chapter. This may include having a health care professional available for purposes of extracting samples to be used for genetic testing.

SEC. 7. Section 7552.5 of the Family Code is amended to read:

7552.5. (a) A copy of the results of all genetic tests performed under Section 7552 or 7558 shall be served upon all parties, by any method of service authorized under Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of the Code of Civil Procedure except personal service, no later than 20 days prior to any hearing in which the genetic test results may be admitted into evidence. The genetic test results shall be accompanied by a declaration under penalty of perjury of the custodian of records or other qualified employee of the laboratory that conducted the genetic tests, stating in substance each of the following:

(1) The declarant is the duly authorized custodian of the records or other qualified employee of the laboratory, and has authority to certify the records.

(2) A statement which establishes in detail the chain of custody of all genetic samples collected, including the date on which the genetic sample was collected, the identity of each person from whom a genetic sample was collected, the identity of the person who performed or witnessed the collecting of the genetic samples and packaged them for transmission to the laboratory, the date on which the genetic samples were received by the laboratory, the identity of the person who unpacked the samples and forwarded them to the person who performed the laboratory analysis of the genetic sample, and the identification and qualifications of all persons who performed the laboratory analysis and published the results.

(3) A statement which establishes that the procedures used by the laboratory to conduct the tests for which the test results are attached are used in the laboratory's ordinary course of business to ensure accuracy and proper identification of genetic samples.

(4) The genetic test results were prepared at or near the time of completion of the genetic tests by personnel of the business qualified to perform genetic tests in the ordinary course of business.

(b) The genetic test results shall be admitted into evidence at the hearing or trial to establish paternity, without the need for foundation testimony of authenticity and accuracy, unless a written objection to the genetic test results is filed with the court and served on all other parties, by any party no later than five days prior to the hearing or trial where paternity is at issue.

(c) If a written objection is filed with the court and served on all parties within the time specified in subdivision (b), experts appointed by the court shall be called by the court as witnesses to testify to their findings and are subject to cross-examination by the parties.

(d) If a genetic test reflects a paternity index of 100 or greater, the copy of the results mailed under subdivision (a) shall be accompanied with a voluntary declaration of paternity form, information prepared according to Section 7572.

SEC. 8. Section 7571 of the Family Code is amended to read:

7571. (a) On and after January 1, 1995, upon the event of a live birth, prior to an unmarried mother leaving any hospital, the person responsible for registering live births under Section 102405 of the Health and Safety Code shall provide to the natural mother and shall attempt to provide, at the place of birth, to the man identified by the natural mother as the natural father, a voluntary declaration of paternity together with the written materials described in Section 7572. Staff in the hospital shall witness the signatures of parents signing a voluntary declaration of paternity and shall forward the signed declaration to the Department of Child Support Services within 20 days of the date the declaration was signed. A copy of the declaration shall be made available to each of the attesting parents.

(b) No health care provider shall be subject to any civil, criminal, or administrative liability for any negligent act or omission relative to the accuracy of the information provided, or for filing the declaration with the appropriate state or local agencies.

(c) The local child support agency shall pay the sum of ten dollars ($10) to birthing hospitals and other entities that provide prenatal services for each completed declaration of paternity that is filed with the Department of Child Support Services, provided that the local child support agency and the hospital or other entity providing prenatal services has entered into a written agreement that specifies the terms and conditions for the payment as required by federal law.

(d) If the declaration is not registered by the person responsible for registering live births at the hospital, it may be completed by the

attesting parents, notarized, and mailed to the Department of Child Support Services at any time after the child's birth.

(e) Prenatal clinics shall offer prospective parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), prenatal clinics must ensure that the form is witnessed and forwarded to the Department of Child Support Services within 20 days of the date the declaration was signed.

(f) Declarations shall be made available without charge at all local child support agency offices, offices of local registrars of births and deaths, courts, and county welfare departments within this state. Staff in these offices shall witness the signatures of parents wishing to sign a voluntary declaration of paternity and shall be responsible for forwarding the signed declaration to the Department of Child Support Services within 20 days of the date the declaration was signed.

(g) The Department of Child Support Services, at its option, may pay the sum of ten dollars ($10) to local registrars of births and deaths, county welfare departments, or courts for each completed declaration of paternity that is witnessed by staff in these offices and filed with the Department of Child Support Services. In order to receive payment, the Department of Child Support Services and the entity shall enter into a written agreement that specifies the terms and conditions for payment as required by federal law. The Department of Child Support Services shall study the effect of the ten dollar ($10) payment on obtaining completed voluntary declaration of paternity forms and shall report to the Legislature on any recommendations to change the ten dollar ($10) optional payment, if appropriate, by January 1, 2000.

(h) The Department of Child Support Services and local child support agencies shall publicize the availability of the declarations. The local child support agency shall make the declaration, together with the written materials described in subdivision (a) of Section 7572, available upon request to any parent and any agency or organization that is required to offer parents the opportunity to sign a voluntary declaration of paternity. The local child support agency shall also provide qualified staff to answer parents' questions regarding the declaration and the process of establishing paternity.

(i) Copies of the declaration filed with the Department of Child Support Services shall be made available only to the parents, the child, the local child support agency, the county welfare department, the county counsel, the Department of Child Support Services, and the courts.

(j) Publicly funded or licensed health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools may offer parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), publicly funded or licensed

health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools shall ensure that the form is witnessed and forwarded to the Department of Child Support Services.

(k) Any agency or organization required to offer parents the opportunity to sign a voluntary declaration of paternity shall also identify parents who are willing to sign, but were unavailable when the child was born. The organization shall then contact these parents within 10 days and again offer the parent the opportunity to sign a voluntary declaration of paternity.

SEC. 8.5. Section 7571 of the Family Code is amended to read:

7571. (a) On and after January 1, 1995, upon the event of a live birth, prior to an unmarried mother leaving any hospital, the person responsible for registering live births under Section 102405 of the Health and Safety Code shall provide to the natural mother and shall attempt to provide, at the place of birth, to the man identified by the natural mother as the natural father, a voluntary declaration of paternity together with the written materials described in Section 7572. Staff in the hospital shall witness the signatures of parents signing a voluntary declaration of paternity and shall forward the signed declaration to the State Department of Social Services within 20 days of the date the declaration was signed. A copy of the declaration shall be made available to each of the attesting parents.

(b) No health care provider shall be subject to any civil, criminal, or administrative liability for any negligent act or omission relative to the accuracy of the information provided, or for filing the declaration with the appropriate state or local agencies.

(c) The local child support agency shall pay the sum of ten dollars ($10) to birthing hospitals and other entities that provide prenatal services for each completed declaration of paternity that is filed with the State Department of Social Services, provided that the local child support agency and the hospital or other entity providing prenatal services has entered into a written agreement that specifies the terms and conditions for the payment as required by federal law.

(d) If the declaration is not registered by the person responsible for registering live births at the hospital, it may be completed by the attesting parents, notarized, and mailed to the State Department of Social Services at any time after the child's birth.

(e) Prenatal clinics shall offer prospective parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), prenatal clinics must ensure that the form is witnessed and forwarded to the State Department of Social Services within 20 days of the date the declaration was signed.

(f) Declarations shall be made available without charge at all local child support agency offices, offices of local registrars of births and deaths, courts, and county welfare departments within this state. Staff in these offices shall witness the signatures of parents wishing

to sign a voluntary declaration of paternity and shall be responsible for forwarding the signed declaration to the State Department of Social Services within 20 days of the date the declaration was signed.

(g) The State Department of Social Services, at its option, may pay the sum of ten dollars ($10) to local registrars of births and deaths, county welfare departments, or courts for each completed declaration of paternity that is witnessed by staff in these offices and filed with the State Department of Social Services. In order to receive payment, the local child support agency and the entity shall enter into a written agreement that specifies the terms and conditions for payment as required by federal law. The State Department of Social Services shall study the effect of the ten dollar ($10) payment on obtaining completed voluntary declaration of paternity forms and shall report to the Legislature on any recommendations to change the ten dollar ($10) optional payment, if appropriate, by January 1, 2000.

(h) The State Department of Social Services and local child support agencies shall publicize the availability of the declarations. The local child support agency shall make the declaration, together with the written materials described in subdivision (a) of Section 7572, available upon request to any parent and any agency or organization that is required to offer parents the opportunity to sign a voluntary declaration of paternity. The local child support agency shall also provide qualified staff to answer parents' questions regarding the declaration and the process of establishing paternity.

(i) Copies of the declaration filed with the State Department of Social Services shall be made available only to the parents, the child, the local child support agency, the county welfare department, the county counsel, the State Department of Social Services, and the courts.

(j) Publicly funded or licensed health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools may offer parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), publicly funded or licensed health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools shall ensure that the form is witnessed and forwarded to the State Department of Social Services.

(k) Any agency or organization required to offer parents the opportunity to sign a voluntary declaration of paternity shall also identify parents who are willing to sign, but were unavailable when the child was born. The organization shall then contact these parents within 10 days and again offer the parent the opportunity to sign a voluntary declaration of paternity.

SEC. 10. Section 7572 of the Family Code is amended to read:

7572. (a) The Department of Child Support Services, in consultation with the State Department of Health Services, the

California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop written materials to assist providers and parents in complying with this chapter. This written material shall be updated periodically by the Department of Child Support Services to reflect changes in law, procedures, or public need.

(b) The written materials for parents which shall be attached to the form specified in Section 7574 and provided to unmarried parents shall contain the following information:

(1) A signed voluntary declaration of paternity that is filed with the Department of Child Support Services legally establishes paternity.

(2) The legal rights and obligations of both parents and the child that result from the establishment of paternity.

(3) An alleged father's constitutional rights to have the issue of paternity decided by a court; to notice of any hearing on the issue of paternity; to have an opportunity to present his case to the court, including his right to present and cross-examine witnesses; to have an attorney represent him; and to have an attorney appointed to represent him if he cannot afford one in a paternity action filed by a local child support agency.

(4) That by signing the voluntary declaration of paternity, the father is voluntarily waiving his constitutional rights.

(c) Parents shall also be given oral notice of the rights and responsibilities specified in subdivision (b). Oral notice may be accomplished through the use of audio or videotape programs developed by the Department of Child Support Services to the extent permitted by federal law.

(d) The Department of Child Support Services shall, free of charge, make available to hospitals, clinics, and other places of birth any and all informational and training materials for the program under this chapter, as well as the paternity declaration form. The Department of Child Support Services shall make training available to every participating hospital, clinic, local registrar of births and deaths, and other place of birth no later than June 30, 1999.

(e) The Department of Child Support Services may adopt regulations, including emergency regulations, necessary to implement this chapter.

SEC. 10.5. Section 7572 of the Family Code is amended to read:

7572. (a) The State Department of Social Services, in consultation with the State Department of Health Services, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop written materials to assist providers and parents in complying with this chapter. This written material shall be updated periodically by the State Department of Social Services to reflect changes in law, procedures, or public need.

(b) The written materials for parents which shall be attached to the form specified in Section 7574 and provided to unmarried parents shall contain the following information:

(1) A signed voluntary declaration of paternity that is filed with the State Department of Social Services legally establishes paternity.

(2) The legal rights and obligations of both parents and the child that result from the establishment of paternity.

(3) An alleged father's constitutional rights to have the issue of paternity decided by a court; to notice of any hearing on the issue of paternity; to have an opportunity to present his case to the court, including his right to present and cross-examine witnesses; to have an attorney represent him; and to have an attorney appointed to represent him if he cannot afford one in a paternity action filed by the district attorney.

(4) That by signing the voluntary declaration of paternity, the father is voluntarily waiving his constitutional rights.

(c) Parents shall also be given oral notice of the rights and responsibilities specified in subdivision (b). Oral notice may be accomplished through the use of audio or videotape programs developed by the State Department of Social Services to the extent permitted by federal law.

(d) The State Department of Social Services shall, free of charge, make available to hospitals, clinics, and other places of birth any and all informational and training materials for the program under this chapter, as well as the paternity declaration form. The State Department of Social Services shall make training available to every participating hospital, clinic, local registrar of births and deaths, and other place of birth no later than June 30, 1999.

(e) The State Department of Social Services may adopt regulations, including emergency regulations, necessary to implement this chapter.

SEC. 11. Section 7575 of the Family Code is amended to read:

7575. (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the Department of Child Support Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The Department of Child Support Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the Department of Child Support Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the Department of Child Support

Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths.

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) (A) The notice of motion for genetic tests under this section may be filed not later than two years from the date of the child's birth by a local child support agency, the mother, or the man who signed the voluntary declaration as the child's father in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(B) The local child support agency's authority under this subdivision is limited to those circumstances where there is a conflict between a voluntary acknowledgment of paternity and a judgment of paternity or a conflict between two or more voluntary acknowledgments of paternity.

(3) The notice of motion for genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure and Chapter 10 (commencing with Section 2120) of Part 1 of Division 6. If the action or motion to set aside the voluntary declaration of paternity is for fraud or perjury, the act must have induced the defrauded parent to sign the voluntary declaration of paternity. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure or Section 2122, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

(2) The parent or local child support agency seeking to set aside the voluntary declaration of paternity shall have the burden of proof.

(3) Any order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of

paternity should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(4) Nothing in this section is intended to restrict a court from acting as a court of equity.

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of the child is not excluded as a possible father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

(6) The Judicial Council shall develop the forms and procedures necessary to effectuate this subdivision.

SEC. 11.5. Section 7575 of the Family Code is amended to read:

7575. (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the State Department of Social Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The State Department of Social Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the State Department of Social Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the State Department of Social Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths.

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) (A) The notice of motion for genetic tests under this section may be filed not later than two years from the date of the child's birth

by a local child support agency, the mother or the man who signed the voluntary declaration as the child's father in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(B) The local child support agency's authority under this subdivision is limited to those circumstances where there is a conflict between a voluntary acknowledgment of paternity and a judgment of paternity or a conflict between two or more voluntary acknowledgments of paternity.

(3) The notice of motion for genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure and Chapter 10 (commencing with Section 2120) of Part 1 of Division 6. If the action or motion to set aside the voluntary declaration of paternity is for fraud or perjury, the act must have induced the defrauded parent to sign the voluntary declaration of paternity. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure or Section 2122, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

(2) The parent seeking to set aside the voluntary declaration of paternity shall have the burden of proof.

(3) Any order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of paternity should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(4) Nothing in this section is intended to restrict a court from acting as a court of equity.

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of the child is not excluded as a possible

father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

(6) The Judicial Council shall develop the forms and procedures necessary to effectuate this subdivision.

SEC. 12. Section 10003 of the Family Code is amended to read:

10003. This division shall apply to all actions or proceedings for temporary or permanent child support, spousal support, health insurance, child custody, or visitation in a proceeding for dissolution of marriage, nullity of marriage, legal separation, or exclusive child custody, or pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12) or the Domestic Violence Prevention Act (Division 10 (commencing with Section 6200)).

SEC. 13. Section 10004 of the Family Code is amended to read:

10004. Services provided by the family law facilitator shall include, but are not limited to, the following: providing educational materials to parents concerning the process of establishing parentage and establishing, modifying, and enforcing child support and spousal support in the courts; distributing necessary court forms and voluntary declarations of paternity; providing assistance in completing forms; preparing support schedules based upon statutory guidelines; and providing referrals to the local child support agency, family court services, and other community agencies and resources that provide services for parents and children. In counties where a family law information center exists, the family law facilitator shall provide assistance on child support issues.

SEC. 13.5. Section 10005 of the Family Code is amended to read:

10005. (a) By local rule, the superior court may designate additional duties of the family law facilitator, which may include, but are not limited to, the following:

(1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Section 10012. Actions in which one or both of the parties are unrepresented by counsel shall have priority.

(2) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section 10003.

(3) If the parties are unable to resolve issues with the assistance of the family law facilitator, prior to or at the hearing, and at the request of the court, the family law facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether or not the matter is ready to proceed.

(4) Assisting the clerk in maintaining records.

(5) Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.

(6) Serving as a special master in proceedings and making findings to the court unless he or she has served as a mediator in that case.

(7) Providing the services specified in Division 15 (commencing with Section 10100). Except for the funding specifically designated for visitation programs pursuant to Section 669B of Title 42 of the United States Code, Title IV-D child support funds shall not be used to fund the services specified in Division 15 (commencing with Section 10100).

(8) Providing the services specified in Section 10004 concerning the issues of child custody and visitation as they relate to calculating child support, if funding is provided for that purpose.

(b) If staff and other resources are available and the duties listed in subdivision (a) have been accomplished, the duties of the family law facilitator may also include the following:

(1) Assisting the court with research and any other responsibilities which will enable the court to be responsive to the litigants' needs.

(2) Developing programs for bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court. These programs shall specifically include information concerning underutilized legislation, such as expedited child support orders (Chapter 5 (commencing with Section 3620) of Part 1 of Division 9), and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.

SEC. 14. Section 10013 is added to the Family Code, to read:

10013. The family law facilitator shall not represent any party. No attorney-client relationship is created between a party and the family law facilitator as a result of any information or services provided to the party by the family law facilitator. The family law facilitator shall give conspicuous notice that no attorney-client relationship exists between the facilitator, its staff, and the family law litigant. The notice shall include the advice that the absence of an attorney-client relationship means that communications between the party and the family law facilitator are not privileged and that the family law facilitator may provide services to the other party.

SEC. 15. Section 10014 is added to the Family Code, to read:

10014. A person employed by, or directly supervised by, the family law facilitator shall not make any public comment about a pending or impending proceeding in the court as provided by paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics. All persons employed by or directly supervised by the family law facilitator shall be provided a copy of paragraph (9) of subdivision (B) of Canon 3 of the Code of Judicial Ethics, and shall be required to sign an acknowledgment that he or she is aware of its provisions.

SEC. 15.5. Section 10015 is added to the Family Code, to read:

10015. The Judicial Council shall create any necessary forms to advise the parties of the types of services provided, that there is no attorney-client relationship, that the family law facilitator is not responsible for the outcome of any case, that the family law facilitator does not represent any party and will not appear in court on the party's behalf, and that the other party may also be receiving information and services from the family law facilitator.

SEC. 16. Section 17405 is added to the Family Code, to read:

17405. In carrying out duties under this article, the local child support agency shall interview the custodial parent within 10 business days of opening a child support case. This interview shall solicit financial and all other information about the noncustodial parent. This information shall be acted upon immediately. The local child support agency shall reinterview the custodial parent as needed.

SEC. 17. Section 17407 is added to the Family Code, to read:

17407. (a) If the Attorney General is of the opinion that a support order or support-related order is erroneous and presents a question of law warranting an appeal, or that an order is sound and should be defended on appeal, in the public interest the Attorney General may:

(1) Perfect or oppose an appeal to the proper appellate court if the order was issued by a court of this state.

(2) If the order was issued in another state, cause an appeal to be taken or opposed in the other state.

(b) In either case, expenses of the appeal may be paid on order of the Attorney General from funds appropriated for the Office of the Attorney General.

SEC. 17.5. Section 17430 of the Family Code, as amended by Senate Bill 542 of the 1999-2000 Regular Session, is amended to read:

17430. (a) Notwithstanding any other provision of law, in any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, a judgment shall be entered without hearing, without the presentation of any other evidence or further notice to the defendant, upon the filing of proof of service by the local child support agency evidencing that more than 30 days have passed since the simplified summons and complaint, proposed judgment, blank answer, blank income and expense declaration, and all notices required by this article and Article 7 (commencing with Section 11475) were served on the defendant.

(b) If the defendant fails to file an answer with the court within 30 days of having been served as specified in subdivision (c) of Section 17400, or at any time before the default judgment is entered, the proposed judgment filed with the original summons and complaint shall be conformed by the court as the final judgment and a copy provided to the local child support agency, unless the local child support agency has filed a declaration and amended proposed judgment pursuant to subdivision (c).

(c) If the local child support agency receives additional financial information within 30 days of service of the complaint and proposed judgment on the defendant and the additional information would result in a support order that is different from the amount in the proposed judgment, the local child support agency shall file a declaration setting forth the additional information and an amended proposed judgment. The declaration and amended proposed judgment shall be served on the defendant in compliance with Section 1013 of the Code of Civil Procedure or otherwise as provided by law. The defendant's time to answer or otherwise appear shall be extended to 30 days from the date of service of the declaration and amended proposed judgment.

(d) Upon entry of the judgment, the clerk of the court shall provide a conformed copy of the judgment to the local child support agency. The local child support agency shall mail by first-class mail, postage prepaid, a notice of entry of judgment by default and a copy of the judgment to the defendant to the address where he or she was served with the summons and complaint and last known address if different from that address.

SEC. 18. Section 17506 of the Family Code, as proposed by Assembly Bill 196 or Senate Bill 542, is amended to read:

17506. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:

(1) The full and true name of the parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of cellular telephone services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the

spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 17604.

(B) For purposes of this subdivision, "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.
(ii) Credits.
(iii) Deductions.
(iv) Exemptions.
(v) Identity.
(vi) Liabilities.
(vii) Nature, source, and amount of income.
(viii) Net worth.
(ix) Payments.
(x) Receipts.
(xi) Address.
(xii) Social security number.

(b) To effectuate the purposes of this section, the Statewide Automated Child Support System, or its replacement, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the Department of Child Support Services, the Department of Justice, and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of this code, relating to abducted, concealed, or detained children. The Statewide Automated Child Support System, or its replacement, shall be entitled to the same cooperation and information as the California Parent Locator Service, to the extent allowed by law. The Statewide Automated Child Support System, or its replacement, shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.

(c) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public

utility, to the extent that this information is stored within the computer data base of the public utility.

(2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, shall request and shall receive from cable television corporations, as defined in Section 215.5 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of cellular telephone services, as defined in Section 17538.9 of the Business and Professions Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of cellular telephone services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and cellular telephone customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement, and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services. The transmittal shall be deemed to be an administrative subpoena for customer service information.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication

services, and provider of cellular telephone services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Statewide Automated Child Support System, or its replacement, and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, providers of electronic digital pager communication, or provider of cellular telephone services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(4) The public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider may charge a fee to the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement, for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider for providing this information.

(5) No public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the Statewide Automated Child Support System or its replacement, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, a local child support agency of any county in this state, the federal Parent Locator Service, the Department of Child Support Services, and local child support agencies. The Statewide Automated Child Support Enforcement System, or its replacement, shall be allowed access to criminal offender record information only to the extent that access is allowed by law.

(e) (1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the Statewide Automated Child Support System, or its replacement, be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 17505, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(f) (1) The Department of Justice, in consultation with the Department of Child Support Services, shall promulgate rules and

regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The Department of Child Support Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of cellular telephone services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services for providing that information.

(g) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars ($18) for any service it provides pursuant to this section that is not performed or funded pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(h) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 19. Section 17508 of the Family Code, as proposed by Assembly Bill 196 or Senate Bill 542, is amended to read:

17508. (a) The Employment Development Department shall, when requested by the Department of Child Support Services local child support agency, or, the Franchise Tax Board for purposes of administering Article 5 (commencing with Section 19271) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, the federal Parent Locator Service, or the California Parent Locator Service, provide access to information collected pursuant to Division 1 (commencing with Section 100 of the Unemployment Insurance Code to the requesting department or agency for purposes of administering the child support enforcement program, and for purposes of verifying employment of applicants and recipients of aid under this chapter or food stamps under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(b) (1) To the extent possible, the Employment Development Department shall share information collected under Section 1088.5 of the Unemployment Insurance Code immediately upon receipt. This sharing of information may include electronic means.

(2) This subdivision shall not authorize the Employment Development Department to share confidential information with any individuals not otherwise permitted by law to receive the information or preclude batch runs or comparisons of data.

SEC. 20. Section 17509 is added to the Family Code, to read:

17509. Once the statewide automated system is fully implemented, the Department of Child Support Services shall periodically compare Employment Development Department information collected under Division 1 (commencing with Section

100) of the Unemployment Insurance Code to child support obligor records and identify cases where the obligor is employed but there is no earning withholding order in effect. The department shall immediately notify local child support agencies in those cases.

SEC. 21. Section 17520 of the Family Code, as proposed by Assembly Bill 196 or Senate Bill 542, is amended to read:

17520. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation

owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the

persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a

showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended

indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the local child support agency who certified the applicant's name. The local child support agency shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon completion of the review. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and

diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child

support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the

State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of

Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 22. Section 11350.6 of the Welfare and Institutions Code is amended to read:

11350.6. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the State Department of Social Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agencies are authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 11475.1 and 11475.2.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude

that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the State Department of Social Services. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section. Notwithstanding any other provision of law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the State Department of Social Services to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The State Department of Social Services may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the local child support agency who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency who submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency who submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall

consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the local child support agency who certified the applicant's name. The local child support agency shall, within 75 days of receipt of the written request, inform the applicant in writing of its findings upon completion of the review. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of its findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

The request for judicial review shall be served by the applicant upon the local child support agency who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment

terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The State Department of Social Services shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the State Department of Social Services in a format prescribed by the State Department of Social Services that the obligor is not in compliance.

The State Department of Social Services may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the State Department of Social Services for

the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the local child support agencies in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by local child support agencies under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the State Department of Social Services and the Franchise Tax Board that will require the State Department of Social Services and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 23. Section 11355 of the Welfare and Institutions Code is amended to read:

11355. (a) Notwithstanding any other provision of law, in any action filed by the local child support agency pursuant to Section 11350, 11350.1, or 11475.1, a judgment shall be entered without hearing, without the presentation of any other evidence or further notice to the defendant, upon the filing of proof of service by the local

child support agency evidencing that more than 30 days have passed since the simplified summons and complaint, proposed judgment, blank answer, blank income and expense declaration, and all notices required by this article and Article 7 (commencing with Section 11475) were served on the defendant.

(b) If the defendant fails to file an answer with the court within 30 days of having been served as specified in subdivision (c) of Section 11475.1, the proposed judgment filed with the original summons and complaint shall be conformed by the court as the final judgment and a copy provided to the local child support agency, unless the local child support agency has filed a declaration and amended proposed judgment pursuant to subdivision (c).

(c) If the local child support agency receives additional financial information within 30 days of service of the complaint and proposed judgment on the defendant and the additional information would result in a support order that is different from the amount in the proposed judgment, the local child support agency shall file a declaration setting forth the additional information and an amended proposed judgment. The declaration and amended proposed judgment shall be served on the defendant in compliance with Section 1013 of the Code of Civil Procedure or otherwise as provided by law. The defendant's time to answer or otherwise appear shall be extended to 30 days from the date of service of the declaration and amended proposed judgment.

(d) Upon entry of the judgment, the clerk of the court shall provide a conformed copy of the judgment to the local child support agency. The local child support agency shall mail by first-class mail, postage prepaid, a notice of entry of judgment by default and a copy of the judgment to the defendant to the address where he or she was served with the summons and complaint and last known address if different from that address.

SEC. 24. Section 11475.6 is added to the Welfare and Institutions Code, to read:

11475.6. In carrying out duties under this article, the local child support agency shall interview the custodial parent within 10 business days of opening a child support case. This interview shall solicit financial and all other information about the noncustodial parent. This information shall be acted upon immediately. The local child support agency shall reinterview the custodial parent as needed.

SEC. 27. Section 11478.3 is added to the Welfare and Institutions Code, to read:

11478.3. (a) If the Attorney General is of the opinion that a support order or support-related order is erroneous and presents a question of law warranting an appeal, or that an order is sound and should be defended on appeal, in the public interest the Attorney General may:

(1) Perfect or oppose an appeal to the proper appellate court if the order was issued by a court of this state.

(2) If the order was issued in another state, cause an appeal to be taken or opposed in the other state.

(b) In either case, expenses of the appeal may be paid on order of the Attorney General from funds appropriated for the Office of the Attorney General.

SEC. 28. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:

(1) The full and true name of the parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of cellular telephone services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 11475.2.

(B) For purposes of this subdivision "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.

(ii) Credits.

(iii) Deductions.

(iv) Exemptions.

(v) Identity.

(vi) Liabilities.

(vii) Nature, source, and amount of income.

(viii) Net worth.

(ix) Payments.

(x) Receipts.
(xi) Address.
(xii) Social security number.

(b) To effectuate the purposes of this section, the Statewide Automated Child Support System, or its replacement, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the State Department of Social Services, the Department of Justice, and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of the Family Code, relating to abducted, concealed, or detained children. The State Department of Social Services' Statewide Automated Child Support System, or its replacement, shall be entitled to the same cooperation and information as the California Parent Locator Service, to the extent allowed by law. The Statewide Automated Child Support System, or its replacement, shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.

(c) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public utility, to the extent that this information is stored within the computer data base of the public utility.

(2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, shall request and shall receive from cable television corporations, as defined in Section 215.5 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of cellular telephone services, as defined in Section 17538.9 of the Business and Professions Code, customer service

information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of cellular telephone services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and cellular telephone customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement, and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services. The transmittal shall be deemed to be an administrative subpoena for customer service information.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry and the Statewide Automated Child Support System, or its replacement, shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication services, and provider of cellular telephone services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Statewide Automated Child Support System, or its replacement, and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, provider of electronic digital pager communication, or provider of cellular telephone services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(4) The public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service

provider may charge a fee to the California Parent Locator Service and Central Registry or the Statewide Automated Child Support System, or its replacement, for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider for providing this information.

(5) No public utility, cable television corporation, electronic digital pager communication provider, or cellular telephone service provider, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized or required by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the Statewide Automated Child Support System or its replacement, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, the district attorney, and a local child support agency of any county in this state, the federal Parent Locator Service, and official child support enforcement agencies. The State Department of Social Services' Statewide Automated Child Support Enforcement System, or its replacement, shall be allowed access to criminal offender record information only to the extent that access is allowed by law.

(e) (1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the Statewide Automated Child Support System, or its replacement, be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 11478, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(f) (1) The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The State Department of Social Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of cellular telephone services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services, and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of cellular telephone services for providing that information.

(g) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars ($18) for any service it provides pursuant to this section that is not performed or funded pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(h) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 29. Section 11478.51 of the Welfare and Institutions Code is amended to read:

11478.51. (a) The Employment Development Department shall, when requested by the department, local child support agency, or the Franchise Tax Board for purposes of administering Article 5 (commencing with Section 19271) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, the federal Parent Locator Service, or the California Parent Locator Service, provide access to information collected pursuant to Division 1 (commencing with Section 100) of the Unemployment Insurance Code to the requesting department or agency for purposes of administering the child support enforcement program, and for purposes of verifying employment of applicants and recipients of aid under this chapter or food stamps under Chapter 10 (commencing with Section 18900) of Part 6.

(b) (1) To the extent possible the Employment Development Department shall share information collected under Section 1088.5 of the Unemployment Insurance Code immediately upon receipt. This sharing of information may include electronic means.

(2) This subdivision shall not authorize the Employment Development Department to share confidential information with any individuals not otherwise permitted by law to receive the information or preclude batch runs or comparisons of data.

SEC. 30. Section 11478.52 is added to the Welfare and Institutions Code, to read:

11478.52. Once the statewide automated system is fully implemented, the State Department of Social Services shall periodically compare Employment Development Department information collected under Division 1 (commencing with Section 100) of the Unemployment Insurance Code to child support obligor records and identify cases where the obligor is employed but there is no earning withholding order in effect. The department shall immediately notify local child support agencies in those cases.

SEC. 31. It is the intent of the Legislature to increase funding to the courts for family law facilitators.

SEC. 32. Sections 16 to 21, inclusive, of this act amending proposed Sections 17506, 17508, and 17520 of, and adding Sections 17405, 17407, and 17509 to, the Family Code, shall become operative only if Assembly Bill 196 or Senate Bill 542 of the 1999–2000 Regular Session of the Legislature is enacted and adds Sections 17405, 17407, 17506, 17508, and 17509 to the Family Code, or any of them, in which

case, Sections 22, 24, 27, 28, 29, and 30 of this act, amending Sections 11350.6, 11478.5, and 11478.51 of, and adding Sections 11475.6, 11475.7, 11475.12, 11478.3, and 11478.52 to, or any of them, the Welfare and Institutions Code, shall not become operative.

SEC. 33. (a) Sections 8, 10, and 11 of this act, amending Sections 7571, 7572, and 7575 of the Family Code, shall become operative only if Assembly Bill 196 of the 1999–2000 Regular Session of the Legislature is enacted, in which case, Sections 8.5, 10.5, and 11.5 of this act amending Sections 7571, 7572, and 7575 of the Family Code, shall not become operative.

(b) Section 5 of this act, amending Section 5246 of the Family Code, shall not become operative if Senate Bill 542 of the 1999–2000 Regular Session is chaptered and amends Section 5246 of the Family Code.

(c) Section 1 of this act, amending Section 30 of the Business and Professions Code, shall not become operative if Assembly Bill 196 of the 1999–2000 Regular Session is chaptered and adds Section 17520 to the Family Code, in which case Section 1.5 of this act shall become operative.

(d) Section 23 of this act, amending Section 11355 of the Welfare and Institutions Code, shall not become operative if Senate Bill 542 of the 1999-2000 Regular Session is chaptered and amends Section 17430 of the Family Code.

SEC. 34. 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.

SEC. 35. There is hereby appropriated the sum of seven hundred five thousand dollars ($705,000) from the General Fund to the State Department of Social Services to augment the Family Law Facilitator Program. The State Department of Social Services shall enter into an interagency agreement with the Judicial Council to allocate the funds to the trial courts for family law facilitators pursuant to Division 14 (commencing with Section 10000) of the Family Code. The State Department of Social Services shall reimburse the Judicial Council pursuant to the interagency agreement.

CHAPTER 653

An act to amend Sections 3652, 3653, 3654, 4009, 7575, 7642, 17212, and 17402 of, to amend the heading of Chapter 6 (commencing with

Section 3650) of Part 1 of Division 9 of, to add Sections 17400.5, 17401, 17433, 17521, and 17530 to, to add Article 4 (commencing with Section 3690) to Chapter 6 of Part 1 of Division 9 of, and to repeal Section 4071.5 of, the Family Code, to add Section 166.5 to the Penal Code, and to amend Sections 11350, and 11478.1 of, and to add Sections 11350.61, 11356.2, 11358, 11475.12, and 11475.14 to, the Welfare and Institutions Code, relating to support orders.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) This act shall be referred to as the Child Support Enforcement Fairness Act of 2000.

(b) The Legislature finds and declares as follows:

(1) The efficient and fair enforcement of child support orders is essential to ensuring compliance with those orders and respect for the administration of justice.

(2) A large number of child support orders are obtained by a default judgment. In one study by the Judicial Council, more than 70 percent of all child support orders studied were obtained by default judgment. Very often, by the time a support obligor receives actual notice of the support order, the accumulated amount of arrearages totals tens of thousands of dollars. These arrearages amounts, particularly for a low wage earner, are a significant obstacle to good faith compliance. Ensuring prompt, actual notice of a child support obligation will prevent the accumulation of large amounts of arrearages and encourage greater timely compliance.

(3) Thousands of individuals each year are mistakenly identified as being liable for child support actions. As a result of that action, the ability to earn a living is severely impaired, assets are seized, and family relationships are often destroyed. It is the moral, legal, and ethical obligation of all enforcement agencies to take prompt action to recognize those cases where a person is mistakenly identified as a support obligor in order to minimize the harm and correct any injustice to that person.

SEC. 2. The heading of Chapter 6 (commencing with Section 3650) of Part 1 of Division 9 of the Family Code is amended to read:

CHAPTER 6. MODIFICATION, TERMINATION, OR SET ASIDE OF SUPPORT ORDERS

SEC. 3. Section 3652 of the Family Code is amended to read:

3652. Except as against a governmental agency, an order modifying, terminating, or setting aside a support order may include an award of attorney's fees and court costs to the prevailing party.

SEC. 4. Section 3653 of the Family Code is amended to read:

3653. (a) An order modifying or terminating a support order may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date, except as provided in subdivision (b) or by federal law (42 U.S.C. Sec. 666(a)(9)).

(b) If an order modifying or terminating a support order is entered due to the unemployment of either the support obligor or the support obligee, the order shall be made retroactive to the later of the date of the service on the opposing party of the notice of motion or order to show cause to modify or terminate or the date of unemployment, subject to the notice requirements of federal law (42 U.S.C. Sec. 666(a)(9)), unless the court finds good cause not to make the order retroactive and states its reasons on the record.

(c) If an order decreasing or terminating a support order is entered retroactively pursuant to this section, the support obligor may be entitled to, and the support obligee may be ordered to repay, according to the terms specified in the order, any amounts previously paid by the support obligor pursuant to the prior order that are in excess of the amounts due pursuant to the retroactive order. The court may order that the repayment by the support obligee shall be made over any period of time and in any manner, including, but not limited to, by an offset against future support payments or wage assignment, as the court deems just and reasonable. In determining whether to order a repayment, and in establishing the terms of repayment, the court shall consider all of the following factors:

(1) The amount to be repaid.

(2) The duration of the support order prior to modification or termination.

(3) The financial impact on the support obligee of any particular method of repayment such as an offset against future support payments or wage assignment.

(4) Any other facts or circumstances that the court deems relevant.

SEC. 5. Section 3654 of the Family Code is amended to read:

3654. At the request of either party, an order modifying, terminating, or setting aside a support order shall include a statement of decision.

SEC. 6. Article 4 (commencing with Section 3690) is added to Chapter 6 of Part 1 of Division 9 of the Family Code, to read:

Article 4. Relief From Orders

3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 11356 or 11356.2 of the Welfare and Institutions Code.

(d) This section shall not be operative if Assembly Bill 196, of the 1999–2000 Regular Session, is enacted and becomes operative.

3690. (a) The court may, on any terms that may be just, relieve a party from a support order, or any part or parts thereof, after the six-month time limit of Section 473 of the Code of Civil Procedure has run, based on the grounds, and within the time limits, provided in this article.

(b) In all proceedings under this division, before granting relief, the court shall find that the facts alleged as the grounds for relief materially affected the original order and that the moving party would materially benefit from the granting of the relief.

(c) Nothing in this article shall limit or modify the provisions of Section 17432 or 17433.

(d) This section shall only be operative if Assembly Bill 196, of the 1999–2000 Regular Session, is enacted and becomes operative.

3691. The grounds and time limits for an action or motion to set aside a support order, or any part or parts thereof, are governed by this section and shall be one of the following:

(a) Actual fraud. Where the defrauded party was kept in ignorance or in some other manner, other than his or her own lack of care or attention, was fraudulently prevented from fully participating in the proceeding. An action or motion based on fraud shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the fraud.

(b) Perjury. An action or motion based on perjury shall be brought within six months after the date on which the complaining party discovered or reasonably should have discovered the perjury.

(c) Lack of Notice.

(1) When service of a summons has not resulted in notice to a party in time to defend the action for support and a default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event later than six months after the party obtains or reasonably should have obtained notice (A) of the support order, or (B) that the party's income and assets are subject to attachment pursuant to the order.

(2) A notice of motion to set aside a support order pursuant to this subdivision shall be accompanied by an affidavit showing, under oath, that the party's lack of notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect. The

party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(3) The court may not set aside or otherwise relieve a party from a support order pursuant to this subdivision if service of the summons was accomplished in accordance with existing requirements of law regarding service of process.

3692. Notwithstanding any other provision of this article, or any other law, a support order may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the support ordered to become excessive or inadequate.

3693. When ruling on an action or motion to set aside a support order, the court shall set aside only those provisions materially affected by the circumstances leading to the court's decision to grant relief. However, the court has discretion to set aside the entire order, if necessary, for equitable considerations.

SEC. 7. Section 4009 of the Family Code is amended to read:

4009. Except as provided in subdivision (c) of Section 11475.1 of the Welfare and Institutions Code, an original order for child support may be made retroactive to the date of filing the petition, complaint, or other initial pleading. If the parent ordered to pay support was not served with the petition, complaint, or other initial pleading within 90 days after filing and the court finds that the parent was not intentionally evading service, the child support order shall be effective no earlier than the date of service.

SEC. 8. Section 4009 of the Family Code is amended to read:

4009. Except as provided in subdivision (c) of Section 17400, an original order for child support may be made retroactive to the date of filing the petition, complaint, or other initial pleading. If the parent ordered to pay support was not served with the petition, complaint, or other initial pleading within 90 days after filing and the court finds that the parent was not intentionally evading service, the child support order shall be effective no earlier than the date of service.

SEC. 9. Section 4071.5 of the Family Code is repealed.

SEC. 10. Section 7575 of the Family Code is amended to read:

7575. (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the State Department of Social Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The State Department of Social Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the State Department of Social Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other

person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the State Department of Social Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths. The department shall, upon written request, provide to a court or commissioner a copy of any recission form filed with the department that is relevant to proceedings before the court or commissioner.

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) The notice of motion for genetic tests under this section may be filed not later than two years from the date of the child's birth by either the mother, the man who signed the voluntary declaration as the child's father, or in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(3) The notice of motion for genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure. If the action or motion to set aside the voluntary declaration of paternity is for fraud or perjury, the act must have induced the defrauded parent to sign the voluntary declaration of paternity. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

(2) The parent seeking to set aside the voluntary declaration of paternity shall have the burden of proof.

(3) Any order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of paternity should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(4) Nothing in this section is intended to restrict a court from acting as a court of equity.

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of the child is not excluded as a possible father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

(6) The Judicial Council shall develop the forms and procedures necessary to effectuate this subdivision.

SEC. 10.5. Section 7575 of the Family Code is amended to read:

7575. (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the State Department of Social Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The State Department of Social Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the State Department of Social Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the State Department of Social Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths. The department shall, upon written request, provide to a court or commissioner a copy of any rescission form filed with the department that is relevant to proceedings before the court or commissioner.

(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) (A) The notice of motion for genetic tests under this section may be filed not later than two years from the date of the child's birth by a local child support agency, the mother, the man who signed the

voluntary declaration as the child's father, or in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(B) The local child support agency's authority under this subdivision is limited to those circumstances where there is a conflict between a voluntary acknowledgement of paternity and a judgment of paternity or a conflict between two or more voluntary acknowledgments of paternity.

(3) The notice of motion for genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure. If the action or motion to set aside the voluntary declaration of paternity is for fraud or perjury, the act must have induced the defrauded parent to sign the voluntary declaration of paternity. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

(2) The parent or local child support agency seeking to set aside the voluntary declaration of paternity shall have the burden of proof.

(3) Any order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of paternity should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(4) Nothing in this section is intended to restrict a court from acting as a court of equity.

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of the child is not excluded as a possible father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any

child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

(6) The Judicial Council shall develop the forms and procedures necessary to effectuate this subdivision.

SEC. 11. Section 7642 of the Family Code is amended to read:

7642. The court has continuing jurisdiction to modify or set aside a judgment or order made under this part. A judgment or order relating to an adoption may only be modified or set aside in the same manner and under the same conditions as an order of adoption may be modified or set aside under Section 9100 or 9102.

SEC. 12. Section 17212 of the Family Code, as added by Assembly Bill 196 of the 1999–2000 Regular Session, is amended to read:

17212. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 17604 and Chapter 6 (commencing with Section 4900) of Part 5 of Division 9.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this division, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the former party, a good cause claim under Section 11477.04 of the Welfare and Institutions Code has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that

the release of the information may result in physical or emotional harm to the former party or the child.

(3) Notwithstanding any other provision of law, a proof of service filed by the district attorney shall not disclose the address where service of process was accomplished. Instead, the district attorney shall keep the address in his or her own records. The proof of service shall specify that the address is on record at the district attorney's office and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The district attorney shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents, and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations and to the county welfare department responsible for administering a program operated under a state plan pursuant to Subpart 1 or 2 or Part B or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion filed

pursuant to this section, the court shall inquire of the local child support agency and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child, or location of a concealed, detained, or abducted child or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, "obligor" means any person owing a duty of support.

(3) As used in this chapter, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the local child support agency is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 17400.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 13. Section 17400.5 is added to the Family Code, to read:

17400.5. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment described in paragraph (2) of subdivision (d) of Section 17400 is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

SEC. 14. Section 17401 is added to the Family Code, to read:

17401. If the parent who is receiving support enforcement services provides to the local child support agency substantial, credible, information regarding the residence or work address of the support obligor, the agency shall initiate an establishment or enforcement action and serve the defendant, if service is required, within 60 days and inform the parent in writing when those actions have been taken. If the address or any other information provided by the support obligee is determined by the local child support agency to be inaccurate and if, after reasonable diligence, the agency is unable to locate and serve the support obligor within that 60-day period, the local child support agency shall inform the support obligee in writing of those facts. The requirements of this section shall be in addition to the time standards established by the State Department of Social Services pursuant to subdivision (k) of Section 17400.

SEC. 15. Section 17402 of the Family Code, as added by Assembly Bill 196 of the 1999–2000 Regular Session, is amended to read:

17402. (a) In any case of separation or desertion of a parent or parents from a child or children that results in aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code being granted to that family, the noncustodial parent or parents shall be obligated to the county for an amount equal to the following:

(1) The amount specified in an order for the support and maintenance of the family issued by a court of competent jurisdiction; or in the absence of a court order, the amount specified in paragraph (2).

(2) The amount of support that would have been specified in an order for the support and maintenance of the family during the period of separation or desertion, but not to exceed one year prior to the date of the filing of the petition or complaint. However, the amount in excess of the aid paid to the family shall not be retained by the county, but disbursed to the family.

(3) The obligation shall be reduced by any amount actually paid by the parent directly to the custodian of the child or to the local child support agency of the county in which the child is receiving aid during the period of separation or desertion for the support and maintenance of the family.

(b) The local child support agency shall take appropriate action pursuant to this section as provided in subdivision (*l*) of Section 17400. The local child support agency may establish liability for child support as provided in subdivision (a) when public assistance was provided by another county or by other counties.

(c) The amount of the obligation established under paragraph (2) of subdivision (a) shall be determined by using the appropriate child support guidelines currently in effect. If one parent remains as a custodial parent, the guideline support shall be computed in the

normal manner. If neither parent remains as a custodial parent, the support shall be computed by combining the noncustodial parents' incomes and placing the figure obtained in the column for noncustodial parent. A zero shall be placed in the column for the custodial parent and the amount of guideline support resulting shall be proportionately shared between the parents as directed by the court. The parents shall pay the amount of support specified in the support order to the local child support agency.

SEC. 16. Section 17433 is added to the Family Code, to read:

17433. In any action in which a judgment or order for support was entered after the entry of the default of the defendant under Section 17430, the court shall relieve the defendant from that judgment or order if the defendant establishes that he or she was mistakenly identified in the order or in any subsequent documents or proceedings as the person having an obligation to provide support. The defendant shall also be entitled to the remedies specified in subdivisions (d) and (e) of Section 17530 with respect to any actions taken to enforce that judgment or order.

SEC. 17. Section 17521 is added to the Family Code, to read:

17521. The order to show cause or notice of motion described in subdivision (j) of Section 17520 shall be filed and heard in the superior court. If, however, criminal proceedings pursuant to paragraph (4) of subdivision (a) of Section 166 of the Penal Code, relating to a support order, or pursuant to Section 270 of the Penal Code are pending against the applicant in the municipal court, in a county in which there is a municipal court, an order to show cause or notice of motion for judicial review of the district attorney's decision not to issue a release may be filed and heard in that court.

SEC. 18. Section 17530 is added to the Family Code, to read:

17530. (a) Notwithstanding any other provision of law, this section shall apply to any actions taken to enforce a judgment or order for support entered as a result of action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, where it is alleged that the enforcement actions have been taken in error against a person who is not the support obligor named in the judgment or order.

(b) Any person claiming that any support enforcement actions have been taken against that person, or his or her wages or assets, in error, shall file a claim of mistaken identity with the local child support agency. The claim shall include verifiable information or documentation to establish that the person against whom the enforcement actions have been taken is not the person named in the support order or judgment. The claim shall be filed on a form established by the Judicial Council that shall specify, immediately above the signature line, that the filing of a false claim shall be punishable as a misdemeanor. A copy of the claim form shall be date stamped by the office of the local child support agency and shall be returned to the claimant.

(c) The local child support agency shall immediately investigate any claim of mistaken identity and shall resolve the claim within 30 days unless exceptional circumstances prevent a resolution within that time. The local child support agency shall provide the claimant with a written statement of the agency's conclusions, or a statement explaining the exceptional circumstances that have delayed the agency's conclusions and an estimated date when conclusions will be reached, within that 30-day period.

(d) If the local child support agency determines that a claim filed pursuant to this section is meritorious, or if the court enters an order pursuant to Section 17433, the agency shall immediately take the steps necessary to terminate all enforcement activities with respect to the claimant, to return to the claimant any assets seized, to terminate any levying activities or attachment or assignment orders, to release any license renewal or application being withheld pursuant to Section 17520, to return any sums paid by the claimant pursuant to the judgment or order, including sums paid to any federal, state, or local government, but excluding sums paid directly to the support obligee, and to ensure that all other enforcement agencies and entities cease further actions against the claimant. With respect to a claim filed under this section, the local child support agency shall also provide the claimant with a statement certifying that the claimant is not the support obligor named in the support order or judgment, which statement shall be prima facie evidence of the claimant's identity in any subsequent enforcement proceedings or actions with respect to that support order or judgment.

(e) If the local child support agency rejects a claim pursuant to this section, or if the agency, after finding a claim to be meritorious, fails to take any of the remedial steps provided in subdivision (d), the claimant may file an action with the superior court to establish his or her mistaken identity or to obtain the remedies described in subdivision (d), or both.

(f) Filing a false claim pursuant to this section shall be a misdemeanor.

(g) The Judicial Council shall develop forms for use pursuant to this section.

(h) This section shall become operative on April 1, 2000.

SEC. 19. Section 166.5 is added to the Penal Code, to read:

166.5. (a) After arrest and before plea or trial or after conviction or plea of guilty and before sentence under paragraph (4) of subdivision (a) of Section 166, for willful disobedience of any order for child, spousal, or family support issued pursuant to Division 9 (commencing with Section 3500) of the Family Code or Section 11475.1 of the Welfare and Institutions Code, the court may suspend proceedings or sentence therein if:

(1) The defendant appears before the court and affirms his or her obligation to pay to the person having custody of the child, or the

spouse, that sum per month as shall have been previously fixed by the court in order to provide for the minor child or the spouse.

(2) The defendant provides a bond or other undertaking with sufficient sureties to the people of the State of California in a sum as the court may fix to secure the defendant's performance of his or her support obligations and that bond or undertaking is valid and binding for two years, or any lesser time that the court shall fix.

(b) Upon the failure of the defendant to comply with the conditions imposed by the court in subdivision (a), the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in the action or why sentence should not be imposed, whereupon the court may proceed with the action, or pass sentence, or for good cause shown may modify the order and take a new bond or undertaking and further suspend proceedings or sentence for a like period.

SEC. 20. Section 166.5 is added to the Penal Code, to read:

166.5. (a) After arrest and before plea or trial or after conviction or plea of guilty and before sentence under paragraph (4) of subdivision (a) of Section 166, for willful disobedience of any order for child, spousal, or family support issued pursuant to Division 9 (commencing with Section 3500) of the Family Code or Section 17400 of the Family Code, the court may suspend proceedings or sentence therein if:

(1) The defendant appears before the court and affirms his or her obligation to pay to the person having custody of the child, or the spouse, that sum per month as shall have been previously fixed by the court in order to provide for the minor child or the spouse.

(2) The defendant provides a bond or other undertaking with sufficient sureties to the people of the State of California in a sum as the court may fix to secure the defendant's performance of his or her support obligations and that bond or undertaking is valid and binding for two years, or any lesser time that the court shall fix.

(b) Upon the failure of the defendant to comply with the conditions imposed by the court in subdivision (a), the defendant may be ordered to appear before the court and show cause why further proceedings should not be had in the action or why sentence should not be imposed, whereupon the court may proceed with the action, or pass sentence, or for good cause shown may modify the order and take a new bond or undertaking and further suspend proceedings or sentence for a like period.

SEC. 21. Section 11350 of the Welfare and Institutions Code is amended to read:

11350. (a) In any case of separation or desertion of a parent or parents from a child or children that results in aid under this chapter being granted to that family, the noncustodial parent or parents shall be obligated to the county for an amount equal to the following:

(1) The amount specified in an order for the support and maintenance of the family issued by a court of competent

jurisdiction; or in the absence of a court order, the amount specified in paragraph (2).

(2) The amount of support that would have been specified in an order for the support and maintenance of the family during the period of separation or desertion, but not to exceed one year prior to the date of the filing of the petition or complaint, provided that any amount in excess of the aid paid to the family shall not be retained by the county, but disbursed to the family.

(3) The obligation shall be reduced by any amount actually paid by the parent directly to the custodian of the child or to the district attorney of the county in which the child is receiving aid during the period of separation or desertion for the support and maintenance of the family.

(b) The district attorney shall take appropriate action pursuant to this section as provided in subdivision (*l*) of Section 11475.1. The district attorney may establish liability for child support as provided in subdivision (a) when public assistance was provided by another county or by other counties.

(c) The amount of the obligation established under paragraph (2) of subdivision (a) shall be determined by using the appropriate child support guidelines currently in effect. If one parent remains as a custodial parent, the guideline support shall be computed in the normal manner. If neither parent remains as a custodial parent, the support shall be computed by combining the noncustodial parents' incomes and placing the figure obtained in the column for noncustodial parent. A zero shall be placed in the column for the custodial parent and the amount of guideline support resulting shall be proportionately shared between the parents as directed by the court. The parents shall pay the amount of support specified in the support order to the district attorney.

SEC. 22. Section 11350.61 is added to the Welfare and Institutions Code, to read:

11350.61. The order to show cause or notice of motion described in subdivision (j) of Section 11350.6 shall be filed and heard in the superior court. If, however, criminal proceedings pursuant to paragraph (4) of subdivision (a) of Section 166 of the Penal Code, relating to a support order, or pursuant to Section 270 of the Penal Code are pending against the applicant in the municipal court, in a county in which there is a municipal court, an order to show cause or notice of motion for judicial review of the district attorney's decision not to issue a release may be filed and heard in that court.

SEC. 23. Section 11356.2 is added to the Welfare and Institutions Code, to read:

11356.2. In any action in which a judgment or order for support was entered after the entry of the default of the defendant under Section 11355, the court shall relieve the defendant from that judgment or order if the defendant establishes that he or she was mistakenly identified in the order or in any subsequent documents

or proceedings as the person having an obligation to provide support. The defendant shall also be entitled to the remedies specified in subdivisions (d) and (e) of Section 11358 with respect to any actions taken to enforce that judgment or order.

SEC. 24. Section 11358 is added to the Welfare and Institutions Code, to read:

11358. (a) Notwithstanding any other provision of law, this section shall apply to any actions taken to enforce a judgment or order for support entered as a result of action filed by the district attorney pursuant to Section 11350, 11350.1, or 11475.1, where it is alleged that the enforcement actions have been taken in error against a person who is not the support obligor named in the judgment or order.

(b) Any person claiming that any support enforcement actions have been taken against that person, or his or her wages or assets, in error, shall file a claim of mistaken identity with the district attorney. The claim shall include verifiable information or documentation to establish that the person against whom the enforcement actions have been taken is not the person named in the support order or judgment. The claim shall be filed on a form established by the Judicial Council that shall specify, immediately above the signature line, that the filing of a false claim shall be punishable as a misdemeanor. A copy of the claim form shall be date stamped by the office of the district attorney and shall be returned to the claimant.

(c) The district attorney shall immediately investigate any claim of mistaken identity and shall resolve the claim within 30 days unless exceptional circumstances prevent a resolution within that time. The district attorney shall provide the claimant with a written statement of the district attorney's conclusions, or a statement explaining the exceptional circumstances that have delayed the district attorney's conclusions and an estimated date when conclusions will be reached, within that 30-day period.

(d) If the district attorney determines that a claim filed pursuant to this section is meritorious, or if the court enters an order pursuant to Section 11356.2, the district attorney shall immediately take the steps necessary to terminate all enforcement activities with respect to the claimant, to return to the claimant any assets seized, to terminate any levying activities or attachment or assignment orders, to release any license renewal or application being withheld pursuant to Section 11350.6, to return any sums paid by the claimant pursuant to the judgment or order, including sums paid to any federal, state, or local government, but excluding sums paid directly to the support obligee, and to ensure that all other enforcement agencies and entities cease further actions against the claimant. With respect to a claim filed under this section, the district attorney shall also provide the claimant with a statement certifying that the claimant is not the support obligor named in the support order or judgment, which statement shall be prima facie evidence of the claimant's identity in

any subsequent enforcement proceedings or actions with respect to that support order or judgment.

(e) If the district attorney rejects a claim pursuant to this section, or if the district attorney, after finding a claim to be meritorious, fails to take any of the remedial steps provided in subdivision (d), the claimant may file an action with the superior court to establish his or her mistaken identity or to obtain the remedies described in subdivision (d), or both.

(f) Filing a false claim pursuant to this section shall be a misdemeanor.

(g) The Judicial Council shall develop forms for use pursuant to this section.

(h) This section shall become operative on April 1, 2000.

SEC. 25. Section 11475.12 is added to the Welfare and Institutions Code, to read:

11475.12. If the parent who is receiving support enforcement services provides to the district attorney substantial, credible, information regarding the residence or work address of the support obligor, the district attorney shall initiate an establishment or enforcement action and serve the defendant, if service is required, within 60 days and inform the parent in writing when those actions have been taken. If the address or any other information provided by the support obligee is determined by the district attorney to be inaccurate and if, after reasonable diligence, the district attorney is unable to locate and serve the support obligor within that 60-day period, the district attorney shall inform the support obligee in writing of those facts. The requirements of this section shall be in addition to the time standards established by the State Department of Social Services pursuant to subdivision (k) of Section 11475.1.

SEC. 26. Section 11475.14 is added to the Welfare and Institutions Code, to read:

11475.14. Except as provided in paragraph (2) of subdivision (a) of Section 11350, if the proposed judgment described in paragraph (2) of subdivision (c) of Section 11475.1 is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

SEC. 27. Section 11478.1 of the Welfare and Institutions Code is amended to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Chapter 6 (commencing with Section 4900) of Part 5 of Division 9 of the Family Code.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency with respect to the former party, a good cause claim under Section 11477.04 has been approved or is pending, or the public agency responsible for establishing paternity or enforcing support has reason to believe that the release of the information may result in physical or emotional harm to the former party or the child.

(3) Notwithstanding any other provision of law, a proof of service filed by the district attorney shall not disclose the address where service of process was accomplished. Instead, the district attorney shall keep the address in his or her own records. The proof of service shall specify that the address is on record at the district attorney's office and that the address may be released only upon an order from the court pursuant to paragraph (6) of subdivision (c). The district attorney shall, upon request by a party served, release to that person the address where service was effected.

(c) Disclosure of the information described in subdivision (b) is authorized as follows:

(1) All files, applications, papers, documents and records as described in subdivision (b) shall be available and may be used by a public entity for all administrative, civil, or criminal investigations, actions, proceedings, or prosecutions conducted in connection with the administration of the child and spousal support enforcement program approved under Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and any other plan or program described in Section 303.21 of Title 45 of the Code of Federal Regulations and to the county welfare department responsible for administering a program operated under

a state plan pursuant to Subpart 1 or 2 or Part B or Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

(2) A document requested by a person who wrote, prepared, or furnished the document may be examined by or disclosed to that person or his or her designee.

(3) The payment history of an obligor pursuant to a support order may be examined by or released to the court, the obligor, or the person on whose behalf enforcement actions are being taken or that person's designee.

(4) Income and expense information of either parent may be released to the other parent for the purpose of establishing or modifying a support order.

(5) Public records subject to disclosure under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code) may be released.

(6) After a noticed motion and a finding by the court, in a case in which establishment or enforcement actions are being taken, that release or disclosure to the obligor or obligee is required by due process of law, the court may order a public entity that possesses an application, paper, document, or record as described in subdivision (b) to make that item available to the obligor or obligee for examination or copying, or to disclose to the obligor or obligee the contents of that item. Article 9 (commencing with Section 1040) of Chapter 4 of Division 3 of the Evidence Code shall not be applicable to proceedings under this part. At any hearing of a motion filed pursuant to this section, the court shall inquire of the district attorney and the parties appearing at the hearing if there is reason to believe that release of the requested information may result in physical or emotional harm to a party. If the court determines that harm may occur, the court shall issue any protective orders or injunctive orders restricting the use and disclosure of the information as are necessary to protect the individuals.

(7) To the extent not prohibited by federal law or regulation, information indicating the existence or imminent threat of a crime against a child, or location of a concealed, detained, or abducted child or the location of the concealing, detaining, or abducting person, may be disclosed to any district attorney, any appropriate law enforcement agency, or to any state or county child protective agency, or may be used in any judicial proceedings to prosecute that crime or to protect the child.

(8) The social security number, most recent address, and the place of employment of the absent parent may be released to an authorized person as defined in Section 653(c) of Title 42 of the United States Code, only if the authorized person has filed a request for the information, and only if the information has been provided to the California Parent Locator Service by the federal Parent Locator Service pursuant to Section 653 of Title 42 of the United States Code.

(d) (1) "Administration and implementation of the child and spousal support enforcement program," as used in this section, means the carrying out of the state and local plans for establishing, modifying, and enforcing child support obligations, enforcing spousal support orders, and determining paternity pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article.

(2) For purposes of this section, "obligor" means any person owing a duty of support.

(3) As used in this chapter, "putative parent" shall refer to any person reasonably believed to be the parent of a child for whom the district attorney is attempting to establish paternity or establish, modify, or enforce support pursuant to Section 11475.1.

(e) Any person who willfully, knowingly, and intentionally violates this section is guilty of a misdemeanor.

(f) Nothing in this section shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if that information is required to be kept confidential by the federal law or regulations relating to the program.

SEC. 28. Section 10.5 of this bill incorporates amendments to Section 7575 of the Family Code proposed by both this bill and SB 240. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 7575 of the Family Code, and (3) this bill is enacted after SB 240, in which case, Section 10 of this bill shall not become operative.

SEC. 29. Sections 8, 13, 14, 16, 17, 18, and 20 of this bill shall become operative only if AB 196 is enacted and becomes operative on or before January 1, 2000, and this bill is enacted after AB 196, in which case Sections 7, 19, 22, 23, 24, 25, and 26 of this bill shall not become operative.

SEC. 30. Section 12 of this bill shall become operative only if (1) AB 196 is enacted and becomes operative on or before January 1, 2000, (2) that bill adds Section 17212 to the Family Code, and (3) this bill is enacted after AB 196, in which case Section 27 of this bill shall not become operative.

SEC. 31. Section 15 of this bill shall become operative only if (1) AB 196 is enacted and becomes operative on or before January 1, 2000, (2) that bill adds Section 17402 to the Family Code, and (3) this bill is enacted after AB 196, in which case Section 21 of this bill shall not become operative.

SEC. 32. 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.

CHAPTER 654

An act to add Section 17525 to, and to repeal and add Section 17520 of, the Family Code, and to amend Section 11350.6 of, and to add Section 11476.3 to, the Welfare and Institutions Code, relating to support.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 17520 of the Family Code, as added by Assembly Bill 196 of the 1999–2000 Regular Session, is repealed.

SEC. 2. Section 17520 of the Family Code, as added by Senate Bill 542 of the 1999–2000 Regular Session, is repealed.

SEC. 3. Section 17520 is added to the Family Code, to read:

17520. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of

compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically

name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be

issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the local child support agency who certified the applicant's name. The local child support agency shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon

completion of the review. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial

review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance

with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 3.5. Section 17520 is added to the Family Code, to read:

17520. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal

law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.

(c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall

consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the local child support agency who certified the applicant's name. The local child support agency shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon completion of the review. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment

terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the

Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 4. Section 17525 is added to the Family Code, to read:

17525. (a) Whenever a state or local governmental agency issues a notice of support delinquency, the notice shall state the date upon which the amount of the delinquency was calculated, and shall notify the obligor that the amount calculated may, or may not, include accrued interest. This requirement shall not be imposed until the local child support agency has instituted the California Child Support Automation system defined in Section 10081. The notice shall further notify the obligor of his or her right to an administrative determination of arrears by requesting that the local child support agency review the arrears, but that payments on arrears continue to be due and payable unless and until the local child support agency

notifies the obligor otherwise. A state agency shall not be required to suspend enforcement of any arrearages as a result of the obligor's request for an administrative determination of arrears, unless the agency receives notification of a suspension pursuant to subdivision (b) of Section 11350.8.

(b) For purposes of this section, "notice of support delinquency" means a notice issued to a support obligor that includes a specific statement of the amount of delinquent support due and payable.

(c) This section shall not require a state or local entity to calculate the amount of a support delinquency, except as otherwise required by law.

SEC. 5. Section 11350.6 of the Welfare and Institutions Code is amended to read:

11350.6. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the district attorney to the State Department of Social Services in which the district attorney verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the district attorney, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the district

attorney, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The district attorney is authorized to use this section to enforce orders for spousal support only when the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 11475.1 and 11475.2.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term.

(b) The district attorney shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The district attorney shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and

telephone number of the district attorney who certified the list to the State Department of Social Services. The district attorney shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The district attorney shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the district attorneys and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section. Notwithstanding any other provision of law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the State Department of Social Services to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the district attorney or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The State Department of Social Services may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the district attorney who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that district attorney's office as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time

period the license will be denied unless the board has received a release from the district attorney who submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the district attorney who submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the district attorney. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each district attorney shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or district attorney, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the district attorney shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the district attorney who certified the applicant's name. The district attorney shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon completion of the review. The district attorney shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the district attorney for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the district attorney will be unable to complete the review and send notice of his or her findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the district attorney's notice of his or her findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the district attorney with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the district attorney and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the district attorney to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the district attorney shall not issue a release if the applicant is not in compliance with the judgment or order for support. The district attorney shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the district attorney's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the district attorney's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the district attorney's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

The request for judicial review shall be served by the applicant upon the district attorney who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the district attorney shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The State Department of Social Services shall prescribe release forms for use by district attorneys. When the obligor is in compliance, the district attorney shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the district attorney pursuant to this subdivision shall process the release within five business days of its receipt.

If the district attorney determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the district attorney may notify the board, the obligor, and the State Department of Social Services in a

format prescribed by the State Department of Social Services that the obligor is not in compliance.

The State Department of Social Services may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or

renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the State Department of Social Services and the Franchise Tax Board that will require the State Department of Social Services and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 5.5. Section 11350.6 of the Welfare and Institutions Code is amended to read:

11350.6. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

(3) "Certified list" means a list provided by the local child support agency to the State Department of Social Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agencies are authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 11475.1 and 11475.2.

(5) "License" includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. "License" also includes any driver's license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.

(6) "Licensee" means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. "Licensee" also means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude

that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

(b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency that certified the list to the State Department of Social Services. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section. Notwithstanding any other provision of law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the State Department of Social Services to applicants and licensees and of responding to requests for this information made by child support agencies.

(e) (1) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.

(3) (A) The State Department of Social Services may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child support agency shall

consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the local child support agency that certified the applicant's name. The local child support agency shall, within 75 days of receipt of the written request, inform the applicant in writing of its findings upon completion of the review. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of its findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment

terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The State Department of Social Services shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the State Department of Social Services in a format prescribed by the State Department of Social Services that the obligor is not in compliance.

The State Department of Social Services may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the State Department of Social Services for

the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the local child support agencies in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by local child support agencies under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the State Department of Social Services and the Franchise Tax Board that will require the State Department of Social Services and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 6. Section 11476.3 is added to the Welfare and Institutions Code, to read:

11476.3. (a) Whenever a state or local governmental agency issues a notice of support delinquency, the notice shall state the date upon which the amount of the delinquency was calculated, and shall notify the obligor that the amount calculated may, or may not, include accrued interest. This requirement shall not be imposed until

the local child support agency has instituted any one of the following systems:

(1) An automation system approved by the department.

(2) A safe haven system.

(3) The California Child Support Automation system defined in Section 10081. The notice shall further notify the obligor of his or her right to an administrative determination of arrears by requesting that the local child support agency review the arrears, but that payments on arrears continue to be due and payable unless and until the local child support agency notifies the obligor otherwise. A state agency shall not be required to suspend enforcement of any arrearages as a result of the obligor's request for an administrative determination of arrears, unless the agency receives notification of a suspension pursuant to subdivision (b) of Section 11350.8.

(b) For purposes of this section, "notice of support delinquency" means a notice issued to a support obligor that includes a specific statement of the amount of delinquent support due and payable.

(c) This section shall not require a state or local entity to calculate the amount of a support delinquency, except as otherwise required by law.

SEC. 7. Section 1 of this act shall become operative only if Assembly Bill 196 is enacted into law during the 1999–2000 Regular Session, and as enacted, adds Section 17520 to the Family Code.

SEC. 8. Section 2 of this act shall become operative only if Senate Bill 542 is enacted into law during the 1999–2000 Regular Session, and as enacted, adds Section 17520 to the Family Code.

SEC. 9. Section 3 of this act shall become operative only if either Assembly Bill 196 or Senate Bill 542, or both, are enacted into law during the 1999-2000 Regular Session, and as enacted, either or both bills add Section 17520 to the Family Code, in which case Section 5 of this act shall not become operative.

SEC. 9.5. Section 3.5 of this bill incorporates changes to Section 17520 of the Family Code proposed by both this bill and SB 240. It shall only become operative if (1) the conditions set forth in Section 9, that would make Section 3 of this act operative, occur, (2) both this bill and SB 240 are enacted and become effective on or before January 1, 2000, (3) each bill adds or amends Section 17520 of the Family Code, and (4) this bill is enacted after SB 240, in which case Section 3 of this bill shall not become operative.

SEC. 10. Section 4 of this act shall become operative only if either Assembly Bill 196 or Senate Bill 542, or both, are enacted into law during the 1999-2000 Regular Session, and as enacted, either or both bills add Division 17 (commencing with Section 17000) to the Family Code, in which case Section 6 of this act shall not become operative.

SEC. 10.5. Section 5.5 of this bill incorporates amendments to Section 11350.6 of the Welfare and Institutions Code proposed by both this bill and SB 240. It shall only become operative if (1) the conditions set forth in Section 9, that would make Section 3 of this act

operative, do not occur, (2) both bills are enacted and become effective on or before January 1, 2000, (3) each bill amends Section 11350.6 of the Welfare and Institutions Code, and (4) this bill is enacted after SB 240, in which case Section 5 of this bill shall not become operative.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 655

An act to amend Sections 27, 101, 800, 805.5, 1601, 1640, 1641, 1642, 1686, 1701.5, 1753, 2085, 2103, 2107, 2111, 2113, 2168.2, 2277, 2475, 2499.5, 2506, 2512.5, 2513, 2520, 2532.3, 2538.1, 2565, 2566, 2566.1, 2770.2, 2770.8, 2770.11, 2770.13, 2770.14, 2843, 2895, 2960, 4022, 4043, 4057, 4078, 4102, 4115.5, 4200.5, 4202, 4402, 4518, 4548, 4927, 4929, 4929.5, 4930, 4931, 4933, 4934, 4935, 4940, 4941, 4944, 4946, 4947, 4955, 4956, 4959, 4960.5, 4961, 4963, 4964, 4966, 4967, 4972, 4973, 4975, 4977, 4979, 4990.5, and 4996.8 of, to add Sections 808.5, 1626.5, 1640.1, 1640.2, 1684, 1701.1, 4040.5, 4984.9, and 4992.8 to, to repeal Sections 2119, 2178, and 2185 of, to repeal and amend Section 4965 of, and to repeal and add Section 2770.12 of, the Business and Professions Code, to amend Sections 12529 and 12529.5 of the Government Code, and to amend Section 11165 of the Health and Safety Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b), on or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public

information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by a board and other related enforcement action taken by a board relative to persons, businesses, or facilities subject to licensure or regulation by a board. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information shall not include personal information including home address (unless used as a business address), home telephone number, date of birth, or social security number.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Committee shall disclose information on its licensees.

(2) The Board of Behavioral Science Examiners shall disclose information on its licensees, including marriage, family and child counselors; licensed clinical social workers; and licensed educational psychologists.

(3) The Board of Dental Examiners shall disclose information on its licensees.

(4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of their licensees.

(5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.

(6) The Structural Pest Control Board shall disclose information on its licensees, including applicators; field representatives; and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(7) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(8) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(9) The cemetery program shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.

(10) The funeral program shall disclose information on its licensees, including, embalmers, funeral director establishments, and funeral directors.

(11) The Contractors' State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3.

(12) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

SEC. 1.1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California State Board of Architectural Examiners.

(h) The State Board of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The State Board of Funeral Directors and Embalmers.

(*l*) The Structural Pest Control Board.

(m) The Bureau of Home Furnishings and Thermal Insulation.

(n) The Board of Registered Nursing.

(o) The Board of Behavioral Sciences.

(p) The State Athletic Commission.

(q) The Cemetery Board.

(r) The State Board of Guide Dogs for the Blind.

(s) The Bureau of Security and Investigative Services.

(t) The Court Reporters Board of California.

(u) The Board of Vocational Nursing and Psychiatric Technicians.

(v) The California State Board of Landscape Architects.

(w) The Bureau of Electronic and Appliance Repair.

(x) The Division of Investigation.

(y) The Bureau of Automotive Repair.

(z) The State Board of Registration for Geologists and Geophysicists.

(aa) The State Board of Nursing Home Administrators.

(ab) The Respiratory Care Board.

(ac) The Acupuncture Examining Committee.

(ad) The Board of Psychology.

(ae) The California Board of Podiatric Medicine.

(af) The Physical Therapy Board.

(ag) The Arbitration Review Program.

(ah) The Committee on Dental Auxiliaries.

(ai) The Hearing Aid Dispensers Examining Committee.

(aj) The Physician Assistant Examining Committee.

(ak) The Speech-Language Pathology and Audiology Board.

(a*l*) The Tax Preparers Program.

(am) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the Board of Chiropractic Examiners, the California Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring the licensee or his or her insurer, to pay any amount of damages in excess of three thousand dollars ($3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) The contents of any central file which are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may

protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information which the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 3. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation, or the medical staff of any such institution, shall request a report from the Medical Board of California, the Board of Psychology, the Osteopathic Medical Board of California, or the Board of Dental Examiners to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his or her staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

(b) Upon a request made by, or on behalf of, an institution described in subdivision (a) or its medical staff, which is received on or after January 1, 1980, the board shall furnish a copy of any report made pursuant to Section 805. However, the board shall not send a copy of a report (1) where the denial, removal, or restriction was imposed solely because of the failure to complete medical records, (2) where the board has found the information reported is without merit, or (3) where a period of three years has elapsed since the report was submitted.

In the event that the board fails to advise the institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, psychologist, podiatrist, or dentist.

(c) Any institution described in subdivision (a) or its medical staff which violates subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

SEC. 4. Section 808.5 is added to the Business and Professions Code, to read:

808.5. For purposes of this article, reports affecting psychologists required to be filed under Sections 801, 801.1, 802, 803, 803.5, and 803.6 shall be filed with the Board of Psychology of the Department of Consumer Affairs.

SEC. 5. Section 1601 of the Business and Professions Code is amended to read:

1601. (a) There is in the Department of Consumer Affairs Dental Board of California in which the administration of this chapter is vested. The board consists of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

This section shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

SEC. 6. Section 1626.5 is added to the Business and Professions Code, to read:

1626.5. In addition to the exemptions set forth in Section 1626, the operations by bona fide students of registered dental assisting, registered dental assisting in extended functions, and registered dental hygiene in extended functions in the clinical departments or the laboratory of an educational program or school approved by the board, including operations by unlicensed students while engaged in clinical externship programs that have been approved by an approved educational program or school, and that are under the general programmatic and academic supervision of that educational program or school, are exempt from the operation of this chapter.

SEC. 7. Section 1640 of the Business and Professions Code is amended to read:

1640. Any person meeting all the following eligibility requirements may apply for a special permit examination:

(a) Furnishing satisfactory evidence of having a pending contract with a California dental college approved by the board as a full-time professor, an associate professor, or an assistant professor.

(b) Furnishing satisfactory evidence of having graduated from a dental college approved by the board.

(c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty board or, in lieu thereof, establishing his or her qualifications to take a specialty board examination or furnishing satisfactory evidence of having completed an advanced educational program in a discipline from a dental college approved by the board.

(d) Paying the fee for applicants for examination provided by this chapter.

SEC. 8. Section 1640.1 is added to the Business and Professions Code, to read:

1640.1. As used in this article, the following definitions shall apply:

(a) "Specialty" means an area of dental practice approved by the American Dental Association and recognized by the board.

(b) "Discipline" means an advanced dental educational program in an area of dental practice not approved as a specialty by the American Dental Association; but offered from a dental college approved by the board.

(c) "Dental college approved by the board" means a dental school or college that is approved by the Commission on Dental Accreditation of the American Dental Association, that is accredited by a body that has a reciprocal accreditation agreement with that commission, or that has been approved by the Board of Dental Examiners through its own approval process.

SEC. 9. Section 1640.2 is added to the Business and Professions Code, to read:

1640.2. The board shall limit the number of special permits to practice in a discipline at a college to the number that may be properly administered and supervised by the board.

SEC. 10. Section 1641 of the Business and Professions Code is amended to read:

1641. The examination by the board for a special permit shall test the fitness of the applicant to practice a specialty or discipline recognized by the board.

SEC. 11. Section 1642 of the Business and Professions Code is amended to read:

1642. Every person to whom a special permit is issued shall be entitled to practice in the specialty or discipline in which he or she has been examined by the board at the dental college at which he or she is employed and its affiliated institutions as approved by the board on the following terms and conditions:

(a) The special permitholder shall file a copy of his or her employment contract with the board. The contract shall contain the following provision:

That the holder understands and acknowledges that when his or her full-time employment is terminated at the dental college, his or her special permit will be automatically revoked and that he or she will voluntarily surrender the permit to the board and will no longer be eligible to practice unless or until he or she has successfully passed the required licensure examination as provided in Article 2 (commencing with Section 1625).

(b) The holder shall be employed as a full-time professor, as associate professor, or an assistant professor at a California dental college approved by the board. "Full-time employment" as used in this section shall be considered a minimum of four days per week.

(c) The holder shall be subject to all the provisions of this chapter applicable to licensed dentists with the exception that the special permit shall be renewed annually.

SEC. 12. Section 1684 is added to the Business and Professions Code, to read:

1684. (a) (1) A licensee who fails or refuses to comply with a request for the dental records of a patient, that is accompanied by that patient's written authorization for release of record to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars ($5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental records to the board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to two hundred fifty dollars ($250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars ($5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable cost of copying the dental records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled

during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) and shall be reported to the State Department of Health Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter

5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a "health care facility" means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 13. Section 1686 of the Business and Professions Code is amended to read:

1686. A person whose license, certificate, or permit has been revoked or suspended, who has been placed on probation, or whose license, certificate, or permit was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(a) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(b) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(c) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

The petition shall state any fact required by the board.

The petition may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

In considering reinstatement or modification or penalty, the board or the administrative law judge hearing the petition may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner's activities during the time the license, certificate, or permit was in good standing, and (4) the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

The board or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license, certificate, or permit or modifying a penalty.

No petition under this section shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation

or petition to revoke probation pending against the person. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 14. Section 1701.1 is added to the Business and Professions Code, to read:

1701.1. Any person who willfully, under circumstances or conditions which cause or create risk of bodily harm, serious physical or mental illness, or death, practices or attempts to practice, or advertises or holds himself or herself out as practicing dentistry without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided in this chapter, or without being authorized to perform that act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of a crime, punishable by imprisonment in a county jail for up to one year.

The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 15. Section 1701.5 of the Business and Professions Code is amended to read:

1701.5. Any association or partnership or corporation or group of three or more dentists, engaging in practice under any name that would otherwise be in violation of Section 1701 may practice under this name if, and only if, the association, partnership, corporation or group holds an outstanding, unexpired, unsuspended, and unrevoked permit issued by the board under this section. On and after July 1, 1995, any individual dentist or pair of dentists engaging in the practice of dentistry under any name that would otherwise be in violation of Section 1701 may practice under that name if and only if the dentist or pair of dentists hold an outstanding, unexpired, unsuspended, and unrevoked permit issued by the board under this section. The board shall issue written permits authorizing the holder to use a name specified in the permit in connection with the holder's practice if, and only if, the board finds to its satisfaction that:

(a) The applicant or applicants are duly licensed dentists.

(b) The place or establishment, or the portion thereof, where the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at the place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants.

(c) The name that the applicant or applicants propose to operate contains at least one of the following designations: "dental group," "dental practice," or "dental office" and contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and subdivisions (i) and (l) of Section 1680.

(d) All licensed persons practicing at the location designated in the application hold valid and outstanding licenses and that no charges of unprofessional conduct are pending against any persons practicing at that location.

Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided for the renewal of certificates issued under this chapter.

Any permits issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit is no longer being fulfilled by the holder to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

In the event charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association or partnership or a member of a group or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until final determination of the charges of unprofessional conduct and unless the charges have resulted in revocation or suspension of license.

SEC. 16. Section 1753 of the Business and Professions Code is amended to read:

1753. The board shall license as a registered dental assistant a person who submits written evidence, satisfactory to the board, of either one of the following requirements:

(a) Graduation from an educational program in dental assisting approved by the board, and satisfactory performance on a written examination required by the board. On and after January 1, 1984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance on a written and practical examination required by the board.

(b) Satisfactory work experience of more than 18 months as a dental assistant in California or another state and satisfactory performance on a written examination required by the board. The board shall give credit toward the 18 months work experience referred to in this subdivision to persons who have graduated from a dental assisting program in a postsecondary institution approved by the Department of Education or in a secondary institution, regional occupational center, or regional occupational program, that are not, however, approved by the board pursuant to subdivision (a). Such credit shall equal the total weeks spent in classroom training and internship on a week-for-week basis not to exceed 16 weeks. The board, in cooperation with the Superintendent of Public Instruction, shall establish the minimum criteria for the curriculum of such nonboard-approved programs. Additionally, the board shall notify those programs only if the program's curriculum does not meet

established minimum criteria, as established for board-approved registered dental assistant programs, except any requirement that the program be given in a postsecondary institution. Graduates of programs not meeting established minimum criteria shall not qualify for satisfactory work experience as defined by this section. In addition, on and after January 1, l984, every applicant seeking licensure as a registered dental assistant pursuant to this subdivision shall provide evidence of his or her satisfactory performance in a written and practical examination required by the board.

The Committee on Dental Auxiliaries shall review and report to the board, on or before January 1, 1982, on the number of nonboard-approved programs in existence and the minimum criteria recommended for nonboard-approved programs.

SEC. 17. Section 2085 of the Business and Professions Code is amended to read:

2085. (a) Notwithstanding Section 2084, a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content may be approved by the Division of Licensing if the division determines that the applicant has otherwise received adequate instruction in the subjects listed in subdivision (b) of Section 2089.

"Adequate instruction" means the applicant has received instruction adequate to prepare the applicant to engage in the practice of medicine in the United States. This definition applies to the sufficiency of instruction of the following courses:

(1) Anatomy, including gross anatomy, embryology, histology, and neuroanatomy.

(2) Bacteriology and immunology.

(3) Biochemistry.

(4) Pathology.

(5) Pharmacology.

(6) Physiology.

The division may require an applicant under this section to undertake additional education to bring up to standard, instruction in the subjects listed in subdivision (b) of Section 2089 as a condition of issuing a physician and surgeon's certificate. In approving an applicant under this section, the division may take into account the applicant's total relevant academic experience, including performance on standardized national examinations.

(b) (1) Notwithstanding subdivision (a) or Sections 2084 and 2089, an applicant who is a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content shall be presumed to meet the requirements of Sections 2084 and 2089 if the special medical school

program has been reviewed and approved by a national accrediting agency approved by the division and recognized by the United States Department of Education.

(2) This presumption may be overcome upon a finding by the division that the medical education received by the applicant is not the educational equivalent of the medical education received by graduates of medical schools approved pursuant to subdivision (a) or Section 2084. In making its finding, the division shall consider, at a minimum, the applicant's total academic and medical training experience prior to, and following, as well as during, medical school, the applicant's performance on standardized national examinations, including the National Board Examinations, the applicant's achievements as a house staff officer, and the number of years of postgraduate medical training completed by the applicant.

(3) An applicant under this subdivision who (A) has satisfactorily completed at least two years of postgraduate clinical training approved by the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association and whose postgraduate training has included at least one year of clinical contact with patients and (B) has achieved a passing score on the written examination required for licensure, satisfies the requirements of Sections 2084 and 2089. For purposes of this subdivision, an applicant who has satisfactorily completed at least two years of approved postgraduate clinical training on or before July 1, 1987, shall not be required to have at least one year of clinical contact with patients.

(4) Applicants under this subdivision who apply after satisfactorily completing one year of approved postgraduate training shall have their applications reviewed by the division and shall be informed by the division either that satisfactory completion of a second year of approved postgraduate training will result in their being deemed to meet the requirements of Sections 2084 and 2089, or informed of any deficiencies in their qualifications or documentation and the specific remediation, if any, required by the division to meet the requirements of Sections 2084 and 2089. Upon satisfactory completion of the specified remediation, the division shall promptly issue a license to the applicant.

SEC. 18. Section 2103 of the Business and Professions Code is amended to read:

2103. An applicant who is a citizen of the United States shall be eligible for a physician's and surgeon's certificate if he or she has completed the following requirements:

(a) Official transcripts or other official evidence satisfactory to the Division of Licensing of compliance with Section 2088.

(b) Official evidence satisfactory to the division of completion of a resident course or professional instruction equivalent to that required in Section 2089 in a medical school located outside the United States or Canada. However, nothing in this section shall be

construed to require the division to evaluate for equivalency any coursework obtained at a medical school disapproved by the division pursuant to Article 4 (commencing with Section 2080).

(c) Official evidence satisfactory to the division of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

(d) Attained a score satisfactory to an approved medical school on a qualifying examination acceptable to the division.

(e) Successful completion of one academic year of supervised clinical training in a program approved by the division pursuant to Section 2104. The division shall also recognize as compliance with this subdivision the successful completion of a one-year supervised clinical medical internship operated by a medical school pursuant to Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section.

(1) Training received in the academic year of supervised clinical training approved pursuant to Section 2104 shall be considered as part of the total academic curriculum for purposes of meeting the requirements of Sections 2089 and 2089.5.

(2) An applicant who has passed the basic science and English language examinations required for certification by the Educational Commission for Foreign Medical Graduates may present evidence of those passing scores along with a certificate of completion of one academic year of supervised clinical training in a program approved by the division pursuant to Section 2104 in satisfaction of the formal certification requirements of subdivision (b) of Section 2102.

(f) Satisfactory completion of the postgraduate training required under Section 2096.

(g) Passed the written examination required for certification as a physician and surgeon in this chapter.

SEC. 19. Section 2107 of the Business and Professions Code is amended to read:

2107. (a) The Legislature intends that the Division of Licensing shall have the authority to substitute postgraduate education and training to remedy deficiencies in an applicant's medical school education and training. The Legislature further intends that applicants who substantially completed their clinical training shall be granted that substitute credit if their postgraduate education took place in an accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the Division of Licensing may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the division shall consider the applicant's medical education and performance on standardized

national examinations, and may substitute up to 36 weeks of approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the year of postgraduate training required by Sections 2102 and 2103.

(c) In addition, the division shall accept certified postgraduate training in a program approved by the American Accreditation Committee for Graduate Medical Education or the Coordinating Council of Medical Education of Canada in lieu of undergraduate work in the same subject for any applicant who meets the following criteria:

(1) Successful completion of at least 60 weeks of clinical instruction while in medical school.

(2) Completion of clinical instruction which does not meet, in whole or in part, the requirements of Section 2089.5.

Certification of this training shall be made by the program's Director of Medical Education, and shall state that the applicant has satisfactorily completed postgraduate training in the subject areas for which the applicant seeks undergraduate credit and for a duration required by Section 2089.5. Postgraduate training substituted for undergraduate training shall be in addition to the year of postgraduate training required by Sections 2102 and 2103.

SEC. 20. Section 2111 of the Business and Professions Code is amended to read:

2111. (a) Physicians who are not citizens but who meet the requirements of subdivision (b), are legally admitted to the United States, and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the Division of Licensing, be permitted to participate in the professional activities of the department in the medical school to which they are appointed. The physician shall be under the direction of the head of the department to which he or she is appointed, and shall be known for these purposes as a "Section 2111 guest physician."

(b) (1) Application for approval shall be made on a form prescribed by the division. The application shall show that the person does not immediately qualify for a physician and surgeon certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements.

(2) Approval shall be granted for a maximum of three years and shall be renewed annually. Renewal shall be granted subject to the discretion of the division. Notwithstanding the limitations in this subdivision on the length of the approval, a Section 2111 guest physician may apply for, and the division may in its discretion grant, not more than two extensions of that approval. An extension may be granted only if the dean of the California medical school has provided justification that the extension is necessary and the person holds a

certificate issued by the Educational Commission for Foreign Medical Graduates.

(c) Except to the extent authorized by this section, the visiting physician may not engage in the practice of medicine, bill for his or her medical services, or otherwise receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(d) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 21. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that the practice is incident to and a necessary part of his or her duties as approved by the division in connection with the faculty position.

(b) To qualify for the certificate an applicant shall meet all the following requirements:

(1) Furnish documentary evidence satisfactory to the division that the applicant is a United States citizen or is legally admitted to the United States.

(2) If the applicant is a graduate of a medical school other than in the United States or Canada, furnish documentary evidence satisfactory to the division that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the division, or has been engaged in the practice of medicine in the United States for at least four years in approved facilities, or has completed a combination of that licensure and training.

If the applicant is a graduate of an approved medical school in the United States or Canada, furnish documentary evidence that he or she has completed a resident course of professional instruction as required in Section 2089.

(3) The head of the department in which the applicant is to be appointed shall certify in writing to the division that the applicant will be under his or her direction and will not be permitted to practice medicine unless incident to and a necessary part of the applicant's duties as approved by the division in subdivision (a).

(4) Submit an application on a form prescribed by the division.

(5) The dean of the medical school shall demonstrate that the applicant has the requisite qualifications to assume the position to which he or she is to be appointed.

(c) A certificate of registration is valid for one year after its issuance. During this period the division may require the registrant to take the written examination required for issuance of a physician's and surgeon's certificate. If the registrant is required to take the written examination and does not pass, the certificate of registration shall nevertheless be effective for the one-year period issued and if the effective period of the certificate will lapse before the examination may be retaken, the certificate of registration may be renewed, subject to the discretion of the division, for a period not to exceed one additional year.

If the registrant is not required to take the written examination in order to be issued a certificate of registration or has passed that examination, the certificate of registration may be renewed annually at the discretion of the division for a total period of five years from the date of issuance of the original certificate, provided, however, that the division, may in its discretion refuse to renew a certificate of registration if the registrant is a graduate of a medical school other than in the United States or Canada and has not, within two years after registration, been issued a certificate by the Educational Commission for Foreign Medical Graduates. The division may condition any renewal on passing the written examination as described in this subdivision.

(d) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2102 or 2135, as appropriate, in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the division may accept practice in an appointment pursuant to this section as qualifying time to meet the postgraduate training requirements in Section 2102, and may, in its discretion, waive the examination and the Educational Commission for Foreign Medical Graduates certification requirements specified in Section 2102 in the event the registrant applies for a physician's and surgeon's certificate. As a condition to waiving any examination or the Educational Commission for Foreign Medical Graduates certification requirement, the division in its discretion, may require an applicant to pass the clinical competency examination referred to in subdivision (d) of Section 2135. The division shall not waive any examination for an applicant who has not completed at least one year in the faculty position.

(e) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

SEC. 22. Section 2119 of the Business and Professions Code is repealed.

SEC. 23. Section 2168.2 of the Business and Professions Code is amended to read:

2168.2. An application for a special faculty permit shall be made on a form prescribed by the Division of Licensing and shall include any information that the Division of Licensing may prescribe to establish an applicant's eligibility for a permit. This information shall include, but is not limited to, the following:

(a) A statement from the dean of the medical school at which the applicant will be employed describing the applicant's qualifications and justifying the dean's determination that the applicant is academically eminent.

(b) A statement by the dean of the medical school listing every affiliated institution in which the applicant will be providing instruction as part of the medical school's educational program and justifying any clinical activities at each of the institutions listed by the dean.

SEC. 24. Section 2178 of the Business and Professions Code is repealed.

SEC. 24.5. Section 2185 of the Business and Professions Code is repealed.

SEC. 25. Section 2277 of the Business and Professions Code is amended to read:

2277. Unless the holder of any certificate provided for in this chapter has been granted the degree of doctor of podiatric medicine after the completion of a full course of study as prescribed by a school or college of podiatric medicine in accordance with the provisions of this chapter, the use of the term or suffix "D.P.M." constitutes unprofessional conduct.

SEC. 26. Section 2475 of the Business and Professions Code, as amended by Section 19 of Chapter 736 of the Statutes of 1998, is amended to read:

2475. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is issued a limited license, which may be renewed annually for up to four years, for this purpose by the division upon recommendation of the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program under the following conditions:

(1) A graduate with a limited license in an approved internship, residency, or fellowship program may participate in training rotations outside the scope of podiatric medicine, under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree wherever and whenever required as

a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a license to practice podiatric medicine under this chapter within two years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(2) Podiatric hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident podiatrists with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in paragraph (1), but that practice and compensation shall be for a period not to exceed one year.

(b) 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. 27. Section 2475 of the Business and Professions Code, as amended by Section 20 of Chapter 736 of the Statutes of 1998, is amended to read:

2475. (a) Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine has been conferred, who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of that program under the following conditions:

(1) A graduate in an approved internship, residency, or fellowship program may participate in training rotations outside the scope of podiatric medicine, under the supervision of a physician and surgeon who holds a medical doctor or doctor of osteopathy degree wherever and whenever required as a part of the training program, and may receive compensation for that practice. If the graduate fails to receive a license to practice podiatric medicine under this chapter within two years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(2) Podiatric hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident podiatrists with another approved college or school of podiatric medicine not located in this state, or those hospitals may appoint a

graduate of an approved school as such a resident for purposes of postgraduate training. Those instructors and residents may practice and be compensated as provided in paragraph (1), but that practice and compensation shall be for a period not to exceed one year.

(b) This section shall become operative on July 1, 2000.

SEC. 28. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the board in accordance with Section 2499.6. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars ($20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars ($700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars ($800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.

(d) The biennial renewal fee shall be eight hundred dollars ($800). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is one hundred fifty dollars ($150).

(f) The duplicate wall certificate fee is forty dollars ($40).

(g) The duplicate renewal receipt fee is forty dollars ($40).

(h) The endorsement fee is thirty dollars ($30).

(i) The letter of good standing fee or for loan deferment is thirty dollars ($30).

(j) There shall be a fee of sixty dollars ($60) for the issuance of a limited license under Section 2475.

(k) The filing fee to appeal the failure of an oral examination shall be twenty-five dollars ($25).

(*l*) The fee for approval of a continuing education course or program shall be one hundred dollars ($100).

SEC. 29. Section 2506 of the Business and Professions Code is amended to read:

2506. As used in this article the following definitions shall apply:

(a) "Board" means the Division of Licensing of the Medical Board of California.

(b) "Licensed midwife" means an individual to whom a license to practice midwifery has been issued pursuant to this article.

(c) "Certified nurse-midwife" means a person to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6.

(d) "Accrediting organization" means an organization approved by the board.

SEC. 30. Section 2512.5 of the Business and Professions Code is amended to read:

2512.5. A person is qualified for a license to practice midwifery when he or she satisfies one of the following requirements:

(a) (1) Successful completion of a three-year postsecondary midwifery education program accredited by an accrediting organization approved by the board. Upon successful completion of the education requirements of this article, the applicant shall successfully complete a comprehensive licensing examination adopted by the board which is equivalent, but not identical, to the examination given by the American College of Nurse Midwives. The examination for licensure as a midwife may be conducted by the Division of Licensing under a uniform examination system, and the division may contract with organizations to administer the examination in order to carry out this purpose. The Division of Licensing may, in its discretion, designate additional written examinations for midwifery licensure that the division determines are equivalent to the examination given by the American College of Nurse Midwives.

(2) The midwifery education program curriculum shall consist of not less than 84 semester units or 126 quarter units. The course of instruction shall be presented in semester or quarter units under the following formula:

(A) One hour of instruction in the theory each week throughout a semester or quarter equals one unit.

(B) Three hours of clinical practice each week throughout a semester or quarter equals one unit.

(3) The midwifery education program shall provide both academic and clinical preparation equivalent, but not identical to that provided in programs accredited by the American College of

Nurse Midwives, which shall include, but not be limited to, preparation in all of the following areas:

(A) The art and science of midwifery, one-half of which shall be in theory and one-half of which shall be in clinical practice. Theory and clinical practice shall be concurrent in the areas of maternal and child health, including, but not limited to, labor and delivery, neonatal well care, and postpartum care.

(B) Communications skills that include the principles of oral, written, and group communications.

(C) Anatomy and physiology, genetics, obstetrics and gynecology, embryology and fetal development, neonatology, applied microbiology, chemistry, child growth and development, pharmacology, nutrition, laboratory diagnostic tests and procedures, and physical assessment.

(D) Concepts in psychosocial, emotional, and cultural aspects of maternal and child care, human sexuality, counseling and teaching, maternal and infant and family bonding process, breast feeding, family planning, principles of preventive health, and community health.

(E) Aspects of the normal pregnancy, labor and delivery, postpartum period, newborn care, family planning or routine gynecological care in alternative birth centers, homes, and hospitals.

(F) The following shall be integrated throughout the entire curriculum:

(i) Midwifery process.

(ii) Basic intervention skills in preventive, remedial, and supportive midwifery.

(iii) The knowledge and skills required to develop collegial relationships with health care providers from other disciplines.

(iv) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior related to maternal and child health, illness, and wellness.

(G) Instruction shall also be given in personal hygiene, client abuse, cultural diversity, and the legal, social, and ethical aspects of midwifery.

(H) The program shall include the midwifery management process, which shall include all of the following:

(i) Obtaining or updating a defined and relevant data base for assessment of the health status of the client.

(ii) Identifying problems based upon correct interpretation of the data base.

(iii) Preparing a defined needs or problem list, or both, with corroboration from the client.

(iv) Consulting, collaborating with, and referring to, appropriate members of the health care team.

(v) Providing information to enable clients to make appropriate decisions and to assume appropriate responsibility for their own health.

(vi) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(vii) Assuming direct responsibility for implementing the plan of care.

(viii) Initiating appropriate measures for obstetrical and neonatal emergencies.

(ix) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the board has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the board to be equivalent to those adopted by the board pursuant to this article.

SEC. 31. Section 2513 of the Business and Professions Code is amended to read:

2513. (a) An approved midwifery education program shall offer the opportunity for students to obtain credit by examination for previous midwifery education and clinical experience. The applicant shall demonstrate, by practical examination, the clinical competencies described in Section 2514 or established by regulation pursuant to Section 2514.5. The midwifery education program's credit by examination policy shall be approved by the board, and shall be available to applicants upon request. The proficiency and practical examinations shall be approved by the board.

(b) Completion of clinical experiences shall be verified by a licensed midwife or certified nurse-midwife, and a physician and surgeon, all of whom shall be current in the knowledge and practice of obstetrics and midwifery. Physicians and surgeons, licensed midwives, and certified nurse-midwives who participate in the verification and evaluation of an applicant's clinical experiences shall show evidence of current practice. The method used to verify clinical experiences shall be approved by the board.

(c) Upon successful completion of the requirements of paragraphs (1) and (2), the applicant shall also complete the licensing examination described in paragraph (1) of subdivision (a) of Section 2512.5.

SEC. 32. Section 2520 of the Business and Professions Code is amended to read:

2520. (a) (1) The fee to be paid upon the filing of a license application shall be fixed by the board at not less than seventy-five dollars ($75) nor more than three hundred dollars ($300).

(2) The fee for renewal of the midwife license shall be fixed by the board at not less than fifty dollars ($50) nor more than two hundred dollars ($200).

(3) The delinquency fee for renewal of the midwife license shall be 50 percent of the renewal fee in effect on the date of the renewal

of the license, but not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

(4) The fee for the examination shall be the cost of administering the examination to the applicant, as determined by the organization that has entered into a contract with the Division of Licensing for the purposes set forth in subdivision (a) of Section 2512.5. Notwithstanding subdivision (b), that fee may be collected and retained by that organization.

(b) The fees prescribed by this article shall be deposited in the Licensed Midwifery Fund, which is hereby established, and shall be available, upon appropriation, to the board for the purposes of this article.

SEC. 33. Section 2532.3 of the Business and Professions Code is amended to read:

2532.3. (a) Upon approval of an application filed pursuant to Section 2532.1, and upon the payment of the fee prescribed by subdivision (i) of Section 2534.2, the board may issue a temporary license for a period of six months from the date of issuance to a speech-language pathologist or audiologist who holds an unrestricted license from another state or territory of the United States or who holds equivalent qualifications as determined by the board and has made application to the board for a license in this state.

(b) A temporary license shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.

(c) Upon written application, the board may reissue a temporary license to any person who has applied for a regular renewable license pursuant to Section 2532.1, and who, in the judgment of the board, has been excusably delayed in completing his or her application or the minimum requirements for a regular license. The board may not reissue a temporary license more than twice to any one person.

SEC. 33.2. Section 2538.1 of the Business and Professions Code is amended to read:

2538.1. (a) The board shall adopt regulations, in collaboration with the State Department of Education, the Commission on Teacher Credentialing, and the Advisory Commission on Special Education, that set forth standards and requirements for the adequate supervision of speech-language pathology assistants.

(b) The board shall adopt regulations as reasonably necessary to carry out the purposes of this article, that shall include, but need not be limited to, the following:

(1) Procedures and requirements for application, registration, renewal, suspension, and revocation.

(2) Standards for approval of Associate Degree Speech-Language Pathology Assistant training programs based upon standards and curriculum guidelines established by the National Council on Academic Accreditation in Audiology and Speech-Language Pathology, or the American Speech-Language-Hearing Association,

or equivalent formal training programs consisting of two years of technical education, including supervised field placements.

(3) The scope of responsibility, duties, and functions of speech-language pathology assistants, that shall include, but not be limited to, all of the following:

(A) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist.

(B) Providing direct treatment assistance to patients or clients under the supervision of a speech-language pathologist.

(C) Following and implementing documented treatment plans or protocols developed by a supervising speech-language pathologist.

(D) Documenting patient or client progress toward meeting established objectives, and reporting the information to a supervising speech-language pathologist.

(E) Assisting a speech-language pathologist during assessments, including, but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for a supervising speech-language pathologist.

(F) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English-speaking patients or clients and their family members.

(G) Scheduling activities and preparing charts, records, graphs, and data.

(H) Performing checks and maintenance of equipment, including, but not limited to, augmentative communication devices.

(I) Assisting with speech-language pathology research projects, in-service training, and family or community education.

The regulations shall provide that speech-language pathology assistants are not authorized to conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist.

(4) The requirements for the wearing of distinguishing name badges with the title of speech-language pathology assistant.

(5) Minimum continuing professional development requirements for the speech-language pathology assistant, not to exceed 12 hours in a two-year period. The speech-language pathology assistant's supervisor shall act as a professional development advisor. The speech-language pathology assistant's professional growth may be satisfied with successful completion of state or regional conferences, workshops, formal in-service presentations, independent study programs, or any combination of these concerning communication and related disorders.

(6) Minimum continuing professional development requirements for the supervisor of a speech-language pathology assistant.

(7) The type and amount of direct and indirect supervision required for speech-language pathology assistants.

(8) The maximum number of assistants permitted per supervisor.

(9) A requirement that the supervising speech-language pathologist shall remain responsible and accountable for clinical judgments and decisions and the maintenance of the highest quality and standards of practice when a speech-language pathology assistant is utilized.

SEC. 33.3. Section 2565 of the Business and Professions Code is amended to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The initial registration fee is one hundred dollars ($100).

(b) The renewal fee is one hundred dollars ($100).

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

(d) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

SEC. 34. Section 2566 of the Business and Professions Code is amended to read:

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers, unless a lower fee is fixed by the division, is as follows:

(a) The application fee for a registered contact lens dispenser shall be one hundred dollars ($100).

(b) The biennial fee for the renewal of certificates shall be fixed by the division in an amount not to exceed one hundred dollars ($100).

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

(d) The division may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

(e) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

SEC. 35. Section 2566.1 of the Business and Professions Code is amended to read:

2566.1. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The initial registration fee is one hundred dollars ($100).

(b) The renewal fee shall be one hundred dollars ($100).

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

(d) The fee for replacement of a lost, stolen or destroyed certificate is twenty-five dollars ($25).

SEC. 36. Section 2770.2 of the Business and Professions Code is amended to read:

2770.2. One or more diversion evaluation committees is hereby created in the state to be established by the board. Each committee

shall be composed of five persons appointed by the board. No board member shall serve on any committee.

Each committee shall have the following composition:

(a) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.

(b) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.

(c) One public member who is knowledgeable in the field of chemical dependency or mental illness.

It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

SEC. 37. Section 2770.8 of the Business and Professions Code is amended to read:

2770.8. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board.

(b) To review and designate those treatment services to which registered nurses in a diversion program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in a diversion program, and to consider reports regarding registered nurses participating in a program.

(f) To set forth in writing for each registered nurse participating in a program a rehabilitation program established for that registered nurse with the requirements for supervision and surveillance.

SEC. 38. Section 2770.11 of the Business and Professions Code is amended to read:

2770.11. (a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by a committee. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If a committee determines that a registered nurse, who is terminated from the program, presents a threat to the public or his or her own health and safety, the committee shall report the name

and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

SEC. 39. Section 2770.12 of the Business and Professions Code is repealed.

SEC. 39.1. Section 2770.12 is added to the Business and Professions Code, to read:

2770.12. (a) After a committee in its discretion has determined that a registered nurse has successfully completed the diversion program, all records pertaining to the registered nurse's participation in the diversion program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the diversion program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).

(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the diversion program, if he or she does any of the following:

(1) Presents information relating to any aspect of the diversion program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the diversion program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the diversion program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary to document the length of time the registered nurse participated in the diversion program.

SEC. 40. Section 2770.13 of the Business and Professions Code is amended to read:

2770.13. The board shall provide for the legal representation of any person making reports under this article to a committee or the board in any action for defamation directly resulting from those reports regarding a registered nurse's participation in a diversion program.

SEC. 41. Section 2770.14 of the Business and Professions Code is amended to read:

2770.14. (a) The board shall produce reports which include, but are not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance.

(b) The board shall conduct a periodic cost analysis of the program.

SEC. 41.2. Section 2843 of the Business and Professions Code is amended to read:

2843. Members of the board shall be appointed for a term of four years. Vacancies occurring shall be filled by appointment for the unexpired term.

Appointments to the office shall be for a term of four years expiring on June 1st.

The Governor shall appoint four of the public members and the licensed members of the board qualified as provided in Section 2842. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 42. Section 2895 of the Business and Professions Code is amended to read:

2895. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application shall be in an amount not less than seventy-five dollars ($75) and may be fixed by the board at an amount no more than one hundred fifty dollars ($150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase the examination from a vendor approved by the board.

(c) The fee to be paid for any examination after the first shall be in an amount not less than seventy-five dollars ($75) and may be fixed by the board at an amount no more than one hundred fifty dollars ($150).

(d) The biennial renewal fee to be paid upon the filing of an application for renewal shall be in an amount not less than one hundred dollars ($100) and may be fixed by the board at an amount no more than one hundred fifty dollars ($150).

(e) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be in an amount not less than fifty dollars ($50) and may be fixed by the board at not more than 50 percent of the regular renewal fee and in no case more than seventy-five dollars ($75).

(f) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(g) The fee to be paid for an interim permit shall be in an amount not less than forty dollars ($40) and may be fixed by the board at an amount no more than fifty dollars ($50).

(h) The fee to be paid for a duplicate license shall be in an amount not less than twenty-five dollars ($25) and may be fixed by the board at an amount no more than fifty dollars ($50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than seventy-five dollars ($75) and may be fixed by the board at an amount no more than one hundred dollars ($100).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 43. Section 2960 of the Business and Professions Code is amended to read:

2960. The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to

practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act.

(o) Commencing January 1, 1999, until January 1, 2001, any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant or registered psychologist.

On and after January 1, 2001, any act of sexual abuse, or sexual relations with a patient, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a psychologist, psychological assistant, or registered psychologist.

(p) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

(q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.

(r) Repeated acts of negligence.

The board shall study and report to the Legislature on or before July 1, 2000, concerning the efficacy of the prohibition contained in subdivision (o).

SEC. 44. Section 4022 of the Business and Professions Code is amended to read:

4022. "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

SEC. 45. Section 4040.5 is added to the Business and Professions Code, to read:

4040.5. "Reverse distributor" means every person who acts as an agent for pharmacies, drug wholesalers, manufacturers, and other entities by receiving, inventorying, and managing the disposition of outdated or nonsalable dangerous drugs.

SEC. 46. Section 4043 of the Business and Professions Code is amended to read:

4043. "Wholesaler" means and includes every person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.

SEC. 47. Section 4057 of the Business and Professions Code is amended to read:

4057. (a) Except as provided in Sections 4006, 4240, and 4342, this chapter does not apply to the retail sale of nonprescription drugs that are not subject to Section 4022 and that are packaged or bottled in the manufacturer's or distributor's container and labeled in accordance with applicable federal and state drug labeling requirements.

(b) This chapter does not apply to specific dangerous drugs and dangerous devices listed in board regulations, where the sale or furnishing is made to any of the following:

(1) A physician, dentist, podiatrist, pharmacist, medical technician, medical technologist, optometrist, or chiropractor holding a currently valid and unrevoked license and acting within the scope of his or her profession.

(2) A clinic, hospital, institution, or establishment holding a currently valid and unrevoked license or permit under Division 2 (commencing with Section 1200) of the Health and Safety Code, or Chapter 2 (commencing with Section 3300) of Division 3 of, or Part 2 (commencing with Section 6250) of Division 6 of, the Welfare and Institutions Code.

(c) This chapter shall not apply to a home health agency licensed under Chapter 8 (commencing with Section 1725) of, or a hospice licensed under Chapter 8.5 (commencing with Section 1745) of, Division 2 of, the Health and Safety Code, when it purchases, stores, furnishes, or transports specific dangerous drugs and dangerous devices listed in board regulations in compliance with applicable law and regulations including:

(1) Dangerous devices described in subdivision (b) of Section 4022, as long as these dangerous devices are furnished only upon the prescription or order of a physician, dentist, or podiatrist.

(2) Hypodermic needles and syringes.

(3) Irrigation solutions of 50 cubic centimeters or greater.

(d) This chapter does not apply to the storage of devices in secure central or ward supply areas of a clinic, hospital, institution, or establishment holding a currently valid and unrevoked license or permit pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or pursuant to Chapter 2 (commencing with Section 3300) of Division 3 of, or Part 2 (commencing with Section 6250) of Division 6 of, the Welfare and Institutions Code.

(e) This chapter does not apply to the retail sale of vitamins, mineral products, or combinations thereof or to foods, supplements,

or nutrients used to fortify the diet of humans or other animals or poultry and labeled as such that are not subject to Section 4022 and that are packaged or bottled in the manufacturer's or distributor's container and labeled in accordance with applicable federal and state labeling requirements.

(f) This chapter does not apply to the furnishing of dangerous drugs and dangerous devices to recognized schools of nursing. These dangerous drugs and dangerous devices shall not include controlled substances. The dangerous drugs and dangerous devices shall be used for training purposes only, and not for the cure, mitigation, or treatment of disease in humans. Recognized schools of nursing for purposes of this subdivision are those schools recognized as training facilities by the California Board of Registered Nursing.

SEC. 48. Section 4078 of the Business and Professions Code is amended to read:

4078. (a) (1) No person shall place a false or misleading label on a prescription.

(2) No prescriber shall direct that a prescription be labeled with any information that is false or misleading.

(b) Notwithstanding subdivision (a), a person may label a prescription, or a prescriber may direct that a prescription be labeled, with information about the drug that is false under either of the following circumstances:

(1) If the labeling is a necessary part of a clinical or investigational drug program approved by the federal Food and Drug Administration or a legitimate investigational drug project involving a drug previously approved by the federal Food and Drug Administration.

(2) If, in the medical judgment of the prescriber, the labeling is appropriate for the proper treatment of the patient.

(c) The furnisher of a prescription labeled pursuant to subdivision (b) shall make, and retain for three years from the date of making, a record stating the manner in which the information on the prescription label varies from the actual drug in the container and documenting the order of the prescriber to so label the container. The prescriber shall make, and retain for at least three years, a record of his or her order to so label the container.

SEC. 49. Section 4102 of the Business and Professions Code is amended to read:

4102. Notwithstanding Section 2038 or any other provision of law, a pharmacist may perform skin puncture in the course of performing routine patient assessment procedures. For purposes of this section, "routine patient assessment procedures" means (a) procedures that a patient could, with or without a prescription, perform for himself or herself, and (b) clinical laboratory tests that are classified as waived or moderate pursuant to the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a) and the regulations adopted thereunder by the federal Health Care

Financing Administration, as authorized by paragraph (11) of subdivision (a) and paragraph (13) of subdivision (b) of Section 1206.5. A pharmacist performing these functions shall, at the direction of the patient, report the results obtained from a blood test to the patient and the patient's physician of choice. Any pharmacist who performs the service authorized by this section shall not be in violation of Section 2052.

SEC. 50. Section 4115.5 of the Business and Professions Code is amended to read:

4115.5. (a) Notwithstanding any other provision of law, a pharmacy technician student may be placed in a pharmacy as a pharmacy technician trainee to complete an externship for the purpose of obtaining practical training that is required by the board as a condition of becoming registered as a pharmacy technician. A "pharmacy technician student" is a person who is enrolled in a pharmacy technician training program operated by a California public postsecondary education institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education.

(b) (1) A pharmacy technician trainee participating in an externship as described in subdivision (a) may perform the duties described in subdivision (a) of Section 4115 only under the immediate, personal supervision and control of a pharmacist. A pharmacist supervising a pharmacy technician trainee shall be on the premises and have the trainee within his or her view at any time the trainee performs the duties described in subdivision (a) of Section 4115.

(2) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall be directly responsible for the conduct of the trainee.

(3) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall verify any prescription prepared by the trainee under supervision of the pharmacist by initialing the prescription label before the medication is disbursed to a patient.

(4) No more than one pharmacy technician trainee per pharmacist may participate in an externship as described in subdivision (a) under the immediate, personal supervision and control of that pharmacist at any time the trainee is present in the pharmacy.

(5) A pharmacist supervising a pharmacy technician trainee participating in an externship as described in subdivision (a) shall certify attendance for the pharmacy technician trainee and certify that the pharmacy technician trainee has met the educational objectives established by California public postsecondary education institution or the private postsecondary vocational institution in which the trainee is enrolled, as established by the institution.

(c) (1) Except as described in paragraph (2), an externship in which a pharmacy technician trainee is participating as described in subdivision (a) shall be for a period of no more than 120 hours.

(2) When an externship in which a pharmacy technician trainee is participating as described in subdivision (a) involves rotation between a community and hospital pharmacy for the purpose of training the student in distinct practice settings, the externship may be for a period of up to 320 hours. No more than 120 of the 320 hours may be completed in a community pharmacy setting or in a single department in a hospital pharmacy.

(d) An externship in which a pharmacy technician trainee may participate as described in subdivision (a) shall be for a period of no more than six consecutive months in a community pharmacy and for a total of no more than 12 months if the externship involves rotation between a community and hospital pharmacy. The externship shall be completed while the trainee is enrolled in a course of instruction at the institution.

(e) A pharmacy technician trainee participating in an externship as described in subdivision (a) shall wear identification that indicates his or her student status.

SEC. 51. Section 4200.5 of the Business and Professions Code is amended to read:

4200.5. (a) The board shall issue, upon application and payment of the fee established by Section 4400, a retired license to a pharmacist who has been licensed by the board for 20 years or longer, and who holds a license that is current and capable of being renewed pursuant to Section 4401, that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline, under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active pharmacist's license is required. A pharmacist holding a retired license shall be permitted to use the titles "retired pharmacist" or "pharmacist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.

SEC. 52. Section 4202 of the Business and Professions Code is amended to read:

4202. (a) An applicant for registration as a pharmacy technician shall be issued a certificate of registration if he or she is a high school graduate or possesses a general education development equivalent, and meets any one of the following requirements:

(1) Has obtained an Associate of Arts degree in a field of study directly related to the duties performed by a pharmacy technician.

(2) Has completed a course of training specified by the board.

(3) Is eligible to take the board's pharmacist licensure examination, but has not been licensed by the board as a pharmacist. Once licensed as a pharmacist, the pharmacy technician registration is no longer valid and the pharmacy technician certificate of registration must be returned to the board within 15 days.

(4) Has provided satisfactory proof to the board of one year's experience performing the tasks specified in subdivision (a) of Section 4115 while employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital, for an inmate of a correctional facility, or experience deemed equivalent by the board.

(b) The board shall adopt regulations pursuant to this section for the registration of pharmacy technicians and for the specification of training courses as set out in paragraph (2) of subdivision (a). Proof of the qualifications of any applicant for registration as a pharmacy technician shall be made to the satisfaction of the board and shall be substantiated by any evidence as may be required by the board.

(c) The board shall conduct a criminal background check of the applicant to determine if an applicant has committed acts that would constitute grounds for denial of registration, pursuant to this chapter or Chapter 2 (commencing with Section 480) of Division 1.5.

(d) The board may suspend or revoke any registration issued pursuant to this section on any ground specified in Section 4301.

SEC. 53. Section 4402 of the Business and Professions Code is amended to read:

4402. (a) Any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

(b) (1) Any pharmacist whose license is canceled pursuant to subdivision (a) may obtain a new license if he or she takes and passes the examination that is required for initial license with the board.

(2) The board may impose conditions on any license issued pursuant to this section, as it deems necessary.

(c) A license that has been revoked by the board under former Section 4411 shall be deemed canceled three years after the board's revocation action, unless the board has acted to reinstate the license in the interim.

(d) This section shall not affect the authority of the board to proceed with any accusation that has been filed prior to the expiration of the three-year period.

(e) Any other license issued by the board may be canceled by the board if the license is not renewed within 60 days after its expiration. Any license canceled under this subdivision may not be reissued. Instead, a new application will be required.

SEC. 54. Section 4518 of the Business and Professions Code is amended to read:

4518. In the event the board adopts a continuing education program, the board may collect a biennial fee as prescribed under Section 4548 from any provider of a course in continuing education who requests approval by the board of the course for purposes of continuing education requirements adopted by the board. The fee, however, shall in no event exceed the cost required for the board to administer the approval of continuing education courses by continuing education providers.

SEC. 55. Section 4548 of the Business and Professions Code is amended to read:

4548. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application shall be in an amount not less than one hundred dollars ($100), and may be fixed by the board at an amount no more than one hundred fifty dollars ($150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.

(c) The fee to be paid for any examination after the first shall be in an amount of not less than one hundred dollars ($100), and may be fixed by the board at an amount no more than one hundred fifty dollars ($150).

(d) The biennial renewal fee to be paid upon the filing of an application for renewal shall be in an amount not less than two hundred forty dollars ($240), and may be fixed by the board at an amount no more than three hundred dollars ($300).

(e) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be in an amount not less than one hundred twenty dollars ($120) and may be fixed by the board at not more than 50 percent of the regular renewal fee and in no case more than one hundred fifty dollars ($150).

(f) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(g) The fee to be paid for an interim permit shall be in an amount no less than twenty dollars ($20) and may be fixed by the board at an amount no more than fifty dollars ($50).

(h) The fee to be paid for a duplicate license shall be in an amount not less than twenty dollars ($20) and may be fixed by the board at an amount no more than fifty dollars ($50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than twenty dollars ($20) and may be fixed by the board at an amount no more than fifty dollars ($50).

(j) The fee to be paid for postlicensure certification in blood withdrawal shall be in an amount not less than twenty dollars ($20) and may be fixed by the board at an amount no more than fifty dollars ($50).

(k) The biennial fee to be paid upon the filing of an application for renewal for a provider of an approved continuing education course or a course to meet the certification requirements for blood withdrawal shall be in an amount not less than one hundred fifty dollars ($150), and may be fixed by the board at an amount no more than two hundred dollars ($200).

SEC. 56. Section 4927 of the Business and Professions Code is amended to read:

4927. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the Acupuncture 'Board".

(b) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

SEC. 57. Section 4929 of the Business and Professions Code is amended to read:

4929. Four members of the board shall be acupuncturists with at least five years of experience in acupuncture and not licensed as physicians and surgeons, one member of the board shall be a physician and surgeon licensed in this state with two years of experience in acupuncture, and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist.

The Governor shall appoint the four acupuncturist members qualified as provided in this section, who shall be appointed to represent a cross section of the cultural backgrounds of licensed members of the acupuncturist profession, two of the public members, and the one licensed physician and surgeon member qualified as provided in this section. All members appointed to the board by the Governor shall be subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. Any member of the board may be removed by the appointing power for neglect of duty, misconduct, or malfeasance in office, after being provided with a written statement of the charges and an opportunity to be heard.

SEC. 58. Section 4929.5 of the Business and Professions Code is amended to read:

4929.5. In the reduction of the membership of the board or a successor board or entity from 11 to 9 members, the following transition provisions shall apply:

(a) Upon the first expiration, after January 1, 1999, of the term of a physician and surgeon member, the board shall be reduced to 10 members, five of whom shall be acupuncturist members, one of whom shall be a physician and surgeon, and four of whom shall be public members. Notwithstanding any other provision of law, the term of that physician and surgeon member shall not be extended for any reason.

(b) Upon the first expiration, after January 1, 2000, of the term of an acupuncturist member, the board shall be reduced to nine members, four of whom shall be acupuncturist members, one of whom shall be a physician and surgeon, and four of whom shall be public members. Notwithstanding any other provision of law, the term of that acupuncturist member shall not be extended for any reason.

SEC. 59. Section 4930 of the Business and Professions Code is amended to read:

4930. Each member of the board shall be appointed for a term of four years.

SEC. 60. Section 4931 of the Business and Professions Code is amended to read:

4931. Each member of the board shall receive per diem and expenses as provided in Section 103.

SEC. 61. Section 4933 of the Business and Professions Code is amended to read:

4933. (a) The board shall administer this chapter.

(b) The board may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture.

(c) A majority of the appointed members of the board shall constitute a quorum to conduct business.

(d) It shall require an affirmative vote of a majority of those present at a meeting of the board to take any action or pass any motion.

SEC. 62. Section 4934 of the Business and Professions Code is amended to read:

4934. The board shall employ personnel necessary for the administration of this chapter; however, the board may appoint an executive officer who is exempt from the provisions of the Civil Service Act.

This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 63. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) Any person who practices acupuncture or holds himself or herself out as practicing or engaging in the practice of acupuncture, unless he or she possesses a current and valid acupuncturist's license, is guilty of a misdemeanor.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words "acupuncture," "acupuncturist," "certified acupuncturist," "licensed acupuncturist," "oriental medicine," or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, oriental medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training when he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed six months in duration at a school approved by the board.

SEC. 64. Section 4940 of the Business and Professions Code is amended to read:

4940. (a) The board shall establish standards for the approval of tutorial programs for education and training in the practice of acupuncture, that satisfy the requirements of Section 4938. The board shall also establish standards for the approved supervising acupuncturists.

(b) An acupuncturist shall be approved to supervise a trainee, provided the supervisor meets the following conditions:

(1) Is licensed to practice acupuncture in this state and that license is current, valid, and has not been suspended or revoked or otherwise subject to disciplinary action.

(2) Has filed an application with the board.

(3) Files with the board the name of each trainee to be trained or employed and a training program satisfactory to the board.

(4) Does not train or employ more than two acupuncture trainees at any one time.

(5) Has at least 10 years of experience practicing as an acupuncturist and has been licensed in this state for at least five years.

(6) Is found by the board to have the knowledge necessary to educate and train the trainee in the practice of an acupuncturist.

The amendments made to this section at the 1993 portion of the 1993–94 Regular Session of the Legislature shall not affect the approval of any supervising acupuncturist which has been issued prior to the effective date of those amendments.

SEC. 65. Section 4941 of the Business and Professions Code is amended to read:

4941. In reviewing applications for licensure based upon the completion of a tutorial program in acupuncture, the board may provide that credit is granted for relevant prior training and experience when that training or experience otherwise meets the standards set by the board.

SEC. 66. Section 4944 of the Business and Professions Code is amended to read:

4944. (a) The board shall have the authority to investigate and evaluate each and every applicant applying for a license to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a license, in conformance with the provisions of this chapter.

(b) The board shall investigate and evaluate each school or college applying for approval under Section 4939 and may utilize and contract with consultants to evaluate those training programs.

(c) The board may delegate to the executive officer or other official of the board its authority under this section in routine matters.

SEC. 67. Section 4946 of the Business and Professions Code is amended to read:

4946. The board shall report to the Legislature on the 31st day of January each year on the nature and extent of the standards, test, and experience requirements adopted pursuant to this chapter, as well as statistical information relating to the total number of persons certified under this chapter to that date and the number certified within the preceding year.

The report shall include recommendations for legislation if the board considers legislation to be necessary.

SEC. 68. Section 4947 of the Business and Professions Code is amended to read:

4947. (a) Nothing in this chapter shall be construed to prevent the practice of acupuncture by a person licensed as a dentist or a podiatrist, within the scope of their respective licenses, if the licensee has received a course of instruction in acupuncture. This course material shall be approved by the licensing board having jurisdiction

over the licensee. The board shall assist the licensing boards in providing information as requested by the individual licensing boards.

(b) The course requirement set forth in subdivision (a) shall not apply to a podiatrist or dentist who has completed a course in acupuncture, including a continuing education course, and has utilized acupuncture prior to July 1, 1982.

SEC. 69. Section 4955 of the Business and Professions Code is amended to read:

4955. The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct that has endangered or is likely to endanger the health, safety, or welfare of the public.

Unprofessional conduct shall include, but not be limited to, the following:

(a) Securing a license by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

(g) Gross negligence.

(h) Repeated negligent acts.

(i) Incompetence.

(j) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the committee shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Board of Dental Examiners of the State of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to

encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(k) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice acupuncture issued by that state, or the revocation, suspension, or restriction of the authority to practice acupuncture by an agency of the federal government, on grounds that would have been grounds for disciplinary action in California of a licensee under this chapter.

SEC. 70. Section 4956 of the Business and Professions Code is amended to read:

4956. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, or duties of an acupuncturist is deemed to be a conviction within the meaning of this chapter.

The board may order a license suspended or revoked, or may deny a license, or may impose probationary conditions upon a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 71. Section 4959 of the Business and Professions Code is amended to read:

4959. (a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Acupuncture Fund.

SEC. 72. Section 4960.5 of the Business and Professions Code is amended to read:

4960.5. (a) A person whose license or registration has been revoked, suspended, or surrendered, or who has been placed on probation, may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license revoked or surrendered.

(2) At least two years for early termination of probation of three years or more.

(3) At least two years for modification of a condition of probation.

(4) At least one year for early termination of probation of less than three years.

(b) The board may require an examination for that reinstatement.

(c) Notwithstanding Section 489, a person whose application for a license or registration has been denied by the board, for violations of Division 1.5 (commencing with Section 475) of this chapter, may reapply to the board for a license or registration only after a period of three years has elapsed from the date of the denial.

SEC. 73. Section 4961 of the Business and Professions Code is amended to read:

4961. (a) Every person who is now or hereafter licensed to practice acupuncture in this state shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he or she has more than one place of practice, all of the places of practice. If the licensee has no place of practice, he or she shall notify the board of that fact. A person licensed by the board shall register within 30 days after the date of his or her licensure.

(b) An acupuncturist licensee shall post his or her license in a conspicuous location in his or her place of practice at all times. If an acupuncturist has more than one place of practice, he or she shall obtain from the board a duplicate license for each additional location and post the duplicate license at each location.

(c) Any licensee that changes the location of his or her place of practice shall register each change within 30 days of making that change. In the event a licensee fails to notify the board of any change in the address of a place of practice within the time prescribed by this section, the board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or her application whether

or not there has been a change in the location of his or her place of practice and, if so, the date of that change. The board may accept that statement as evidence of the change of address.

SEC. 74. Section 4963 of the Business and Professions Code is amended to read:

4963. Whenever any person has engaged in an act or practice which constitutes an offense against this chapter, a superior court of a county on application of the board may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board may commence action in such superior court under the provisions of this section on its own motion and no undertaking shall be required in any action commenced by the board.

SEC. 75. Section 4964 of the Business and Professions Code is amended to read:

4964. The provisions of this article insofar as they are substantially the same as provisions relating to the same subject matter of any previous acupuncture licensure law shall be construed as a restatement and continuation thereof, and not as a new enactment.

SEC. 76. Section 4965 of the Business and Professions Code, as amended by Section 18 of Chapter 983 of the Statutes of 1991, is repealed.

SEC. 77. Section 4965 of the Business and Professions Code, as added by Section 19 of Chapter 983 of the Statutes of 1991, is amended to read:

4965. (a) Licenses issued pursuant to this chapter shall expire on the last day of the birth month of the licensee during the second year of a two-year term, if not renewed.

(b) The board shall establish and administer a birth date renewal program.

(c) To renew an unexpired license, the holder shall apply for renewal on a form provided by the board and pay the renewal fee fixed by the board.

SEC. 78. Section 4966 of the Business and Professions Code is amended to read:

4966. Except as provided in Section 4969, a license that has expired may be renewed at any time within three years after its expiration by filing of an application for renewal on a form provided by the board, paying all accrued and unpaid renewal fees, and providing proof of completing continuing education requirements. If the license is not renewed prior to its expiration, the acupuncturist, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date the delinquency fee is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 4965, after the

effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 79. Section 4967 of the Business and Professions Code is amended to read:

4967. A person who fails to renew his or her license within three years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets all of the following requirements:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if an initial application for licensure was being made, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice as an acupuncturist.

(c) Pays all of the fees that would be required if an initial application for licensure was being made. The board may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without an examination pursuant to this section.

SEC. 80. Section 4972 of the Business and Professions Code is amended to read:

4972. Fees fixed by the board shall be set forth in regulations duly adopted by the board.

SEC. 81. Section 4973 of the Business and Professions Code is amended to read:

4973. A fee for the inspection or reinspection of a school or college of acupuncture for purposes of approval or continued approval shall be charged at an amount to recover the direct costs incurred by the board in conducting that inspection and evaluation of the school or college.

SEC. 82. Section 4975 of the Business and Professions Code is amended to read:

4975. An acupuncture corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act, this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs.

With respect to an acupuncture corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Acupuncture Board.

SEC. 83. Section 4977 of the Business and Professions Code is amended to read:

4977. An acupuncture corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under Article 4 (commencing with Section 4955). In the conduct of its practice, it shall observe and be bound by statutes and regulations to the same extent as a person holding a license under this chapter.

SEC. 84. Section 4979 of the Business and Professions Code is amended to read:

4979. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including, but not limited to, regulations requiring (a) that the bylaws of an acupuncture corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time the regulations may provide, and (b) that an acupuncture corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 85. Section 4984.9 is added to the Business and Professions Code, to read:

4984.9. A licensee or registrant shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

SEC. 86. Section 4990.5 of the Business and Professions Code is amended to read:

4990.5. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint four of the public members and the five licensed members qualified as provided in Section 4990.3 with the advice and consent of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 87. Section 4992.8 is added to the Business and Professions Code, to read:

4992.8. A licensee or registrant shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

SEC. 88. Section 4996.8 of the Business and Professions Code is amended to read:

4996.8. The current renewal receipt shall be displayed near the license.

SEC. 89. Section 12529 of the Government Code is amended to read:

12529. (a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California including all committees under the jurisdiction of the board or a division of the board, including the Board of Podiatric Medicine, and the Board of Psychology, and to provide ongoing review of the investigative activities conducted in support of those prosecutions, as provided in subdivision (b) of Section 12629.5.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the division or board.

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, and the committees under the jurisdiction of the Medical Board of California or a division of the board, and the Board of Psychology, with the intent that the expenses be proportionally shared as to services rendered.

SEC. 90. Section 12529.5 of the Government Code is amended to read:

12529.5. (a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California or the Board of Psychology shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to assist the division and the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt

through disposition and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative, medical advisory, and intake staff. The Senior Assistant Attorney General and deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards, division, or allied health committees, including the Board of Podiatric Medicine, in designing and providing initial and in-service training programs for staff of the division, boards, or allied health committees, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the division or the boards shall be made by the executive officer of the division, the board, or allied health committee, including the Board of Podiatric Medicine, or the Board of Psychology, as appropriate in consultation with the senior assistant.

SEC. 91. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds, establish the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances by all practitioners authorized to prescribe or dispense these controlled substances. CURES shall be implemented as a pilot project, commencing on July 1, 1997, to be administered concurrently with the existing triplicate prescription process, to examine the comparative efficiencies between the two systems.

(b) The CURES pilot project shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient,

is not compromised. Further, data disclosed to any individual or agency as described in this subdivision, shall not be disclosed, sold, or transferred to any third party.

(c) The Department of Justice, in consultation with the Board of Pharmacy, shall submit a report to the Legislature by January 1, 1999, with annual updates also due January 1, 2000, 2001, and 2002, on the CURES pilot project. Specifically, these reports shall assess the ability of CURES to provide complete, accurate, and timely data on Schedule II controlled substances prescribed and dispensed in California, the effectiveness of this information in investigating and prosecuting individuals suspected of diversion activities, and the feasibility of replacing the current triple-copy prescription form with a single-copy serialized prescription form to reduce existing administrative burdens. Further, the report shall make recommendations regarding the replacement of the existing triplicate prescription process with CURES, and funding alternatives for ongoing system support.

(d) The sum of one million fifty thousand dollars ($1,050,000) is hereby appropriated from the Pharmacy Board Contingent Fund to the Board of Pharmacy for the purpose of entering into an interagency agreement with the Department of Justice for the implementation, operation, and evaluation of CURES.

(e) 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. 92. 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.

CHAPTER 656

An act to amend Sections 22, 5000, 5015.6, 6710, 6714, 7000.5, 7011, and 8710 of the Business and Professionals Code, relating to professional and vocational licensees.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 22 of the Business and Professions Code is amended to read:

22. (a) "Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) Whenever the regulatory program of a board that is subject to review by the Joint Legislative Sunset Review Committee, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a "bureau."

SEC. 1.5. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs the State Board of Accountancy, which consists of 10 members, five of whom shall be certified public accountants, one of whom shall be a public accountant, and four of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint two of the public members, the five certified public accountant members, and the public accountant member qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. In appointing the five certified public accountant members, the Governor shall appoint members representing a cross section of the accounting profession with at least one member representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four certified public accountants as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

This section shall become operative on July 1, 1997, and shall become inoperative on July 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2003, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 6710 of the Business and Professions Code is amended to read:

6710. (a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.

(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.

(c) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed. 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 the board shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

SEC. 4. Section 6714 of the Business and Professions Code is amended to read:

6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.

This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. 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, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 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, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 8710 of the Business and Professions Code is amended to read:

8710. The Board for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

CHAPTER 657

An act to amend Sections 4980.45, 4982, 4986.70, 4987.5, 4988.1, 4988.2, 4990.5, 4992.3, 4996.21, 4998, 5000, 5030, 5070.5, 5070.6, 5133, 7685.2, and 7685.3 of, to amend and renumber Sections 4987.8, 4987.9, 4998.3, 4998.4, 4998.5, 4998.6, and 4998.7 of, to repeal and add Sections 4987.6 and 4998.1 of, and to repeal Sections 4987.7, and 4998.2 of, the Business and Professions Code, to amend Section 13401 of the Corporations Code, and to amend Sections 7055 and 7100 of the Health and Safety Code, relating to professions and vocations.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who is a marriage, family, and child counselor, a psychologist, a clinical social worker, a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry and who is described in subdivision (f) of Section 4980.40 may supervise or employ, at any one time, no more than two unlicensed marriage, family, and child counselor registered interns in that private practice.

(b) A marriage, family, and child counseling corporation may employ, at any one time, no more than two registered interns for each employee or shareholder who is qualified to provide supervision pursuant to subdivision (f) of Section 4980.40. In no event shall any corporation employ, at any one time, more than 10 registered interns. In no event shall any supervisor supervise, at any one time, more than two registered interns. Persons who supervise interns shall be employed full time by the professional corporation and shall be actively engaged in performing professional services at and for the professional corporation. Employment and supervision within a marriage, family, and child counseling corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

(c) Within 30 days of employment and within 30 days of termination of employment, in any allowable work setting, a registered intern shall notify the board in writing of the employment or termination of employment. The notice shall include the name of the registered intern, the full name and business address of the employer, the type of work setting where the intern is gaining hours of experience, and the date employment commenced or terminated. If an intern fails to notify the board within 30 days after the date of his or her employment or termination of employment, the board shall not accept any hours of experience gained during that period of employment prior to notification for the purposes of meeting the experience requirements for licensure. The board may, at its discretion, waive this requirement when it believes good cause exists. "Employment," as used in this section, means the gaining of hours of experience in an allowable setting as an employee or as a volunteer. This subdivision does not apply to hours gained on or after January 1, 1994.

SEC. 3. Section 4982 of the Business and Professions Code is amended to read:

4982. The board may refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence

only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing any such person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4211, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage, family, and child counseling services.

(d) Gross negligence or incompetence in the performance of marriage, family, and child counseling.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor.

(*l*) Performing, or holding one's self out as being able to perform, or offering to perform, or permitting any registered trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner which is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern or registered trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding one's self out as being able to perform, professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a registered trainee or registered intern under one's supervision or control to perform, or permitting the registered trainee or registered intern to hold one's self out as competent to perform, professional services beyond the registered trainee's or registered intern's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

SEC. 4. Section 4986.70 of the Business and Professions Code is amended to read:

4986.70. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he or she has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist, the record of conviction being conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public and to an extent that such action impairs his or her ability to perform his or her work as a licensed educational psychologist with safety to the public.

(d) Improper advertising.

(e) Violating or conspiring to violate the terms of this article.

(f) Committing a dishonest or fraudulent act as a licensed educational psychologist resulting in substantial injury to another.

(g) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(h) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or

marriage, family and child counselor shall constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

(i) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

SEC. 5. Section 4987.5 of the Business and Professions Code is amended to read:

4987.5. A marriage, family, and child counseling corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are marriage, family, and child counselors, physicians and surgeons, psychologists, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a marriage, family, and child counseling corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 6. Section 4987.6 of the Business and Professions Code is repealed.

SEC. 7. Section 4987.6 is added to the Business and Professions Code, to read:

4987.6. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or any regulations duly adopted under those laws.

SEC. 8. Section 4987.7 of the Business and Professions Code is repealed.

SEC. 9. Section 4987.8 of the Business and Professions Code is amended and renumbered to read:

4987.7. The name of a marriage, family, and child counseling corporation shall contain one or more of the words "marriage," "family," and "child" together with one or more of the words "counseling," "counselor," or "therapist," and wording or abbreviations denoting corporate existence. A marriage, family, and child counseling corporation that conducts business under a fictitious business name shall not use any name which is false, misleading or deceptive, and shall inform the patient, prior to the commencement

of treatment, that the business is conducted by a marriage, family, and child counseling corporation.

SEC. 10. Section 4987.9 of the Business and Professions Code is amended and renumbered to read:

4987.8. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a marriage, family, and child counseling corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

SEC. 11. Section 4988.1 of the Business and Professions Code is amended to read:

4988.1. A marriage, family, and child counseling corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license as a marriage, family, and child counselor.

SEC. 12. Section 4988.2 of the Business and Professions Code is amended to read:

4988.2. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a marriage, family, and child counseling corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that a marriage, family, and child counseling corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 13. Section 4990.5 of the Business and Professions Code is amended to read:

4990.5. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint four of the public members and the five licensed members qualified as provided in Section 4990.3 with the advice and consent of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 14. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may refuse to issue a registration or a license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4211, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter

5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of clinical social work.

(e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(*l*) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision

shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner which is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

SEC. 15. Section 4996.21 of the Business and Professions Code is amended to read:

4996.21. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) On or after January 1, 1999, a registrant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services as permitted by Section 4996.9. Experience shall consist of the following:

(1) A minimum of 2,000 hours in psychosocial diagnosis, assessment, and treatment, including psychotherapy and counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Notwithstanding the requirements of subdivision (a), up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.

(1) Supervision means responsibility for and control of the quality of clinical social work services being provided.

(2) Consultation shall not be considered to be supervision.

(3) Supervision shall include at least one hour of direct supervisor contact for each week of experience claimed and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two

hours of face-to-face contact in a group setting of not more than eight persons.

(4) The supervisor and the supervisee shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial supervisory plan within 30 days of commencement of supervision. The supervisor shall submit to the board within 30 days of termination of supervision evidence of satisfactorily completed supervised experience by the supervisee.

(c) A "private practice setting" is any setting other than a governmental entity, a school, college, or university, a nonprofit and charitable corporation, a licensed health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code, a social rehabilitation facility or a community treatment facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, a pediatric day health and respite care facility, as defined in Section 1760.2 of the Health and Safety Code, or a licensed alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code.

(1) In a setting that is not a private practice, a registrant shall be employed on either a voluntary or paid basis.

(2) If volunteering, the registrant shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(3) If employed, the registrant shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(d) Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not do any of the following:

(1) Pay his or her employer or supervisor for supervision, and shall receive fair remuneration from his or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(e) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the registrant's social work services.

SEC. 16. Section 4998 of the Business and Professions Code is amended to read:

4998. A licensed clinical social worker corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed clinical social workers, physicians and surgeons, psychologists, marriage, family, and child counselors, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs. With respect to a licensed clinical social workers corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Sciences.

SEC. 17. Section 4998.1 of the Business and Professions Code is repealed.

SEC. 18. Section 4998.1 is added to the Business and Professions Code, to read:

4998.1. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or any regulations duly adopted under those laws.

SEC. 19. Section 4998.2 of the Business and Professions Code is repealed.

SEC. 20. Section 4998.3 of the Business and Professions Code is amended and renumbered to read:

4998.2. Notwithstanding Section 4996, the name of a licensed clinical social workers corporation and any name or names under which it may be rendering professional services shall contain the words "licensed clinical social worker" and wording or abbreviations denoting corporate existence.

A licensed clinical social workers corporation that conducts business under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a licensed clinical social workers corporation.

SEC. 21. Section 4998.4 of the Business and Professions Code is amended and renumbered to read:

4998.3. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a licensed clinical social worker corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

SEC. 22. Section 4998.5 of the Business and Professions Code is amended and renumbered to read:

4998.4. The income of a licensed clinical social worker corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), shall not in any manner accrue to the benefit of that shareholder or his or her shares in the licensed clinical social workers corporation.

SEC. 23. Section 4998.6 of the Business and Professions Code is amended and renumbered to read:

4998.5. A licensed clinical social workers corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes, rules, and regulations to the same extent as a person holding a license as a licensed clinical social worker.

SEC. 24. Section 4998.7 of the Business and Professions Code is amended and renumbered to read:

4998.6. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a licensed clinical social workers corporation shall include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act, or a deceased person, shall be sold to the corporation or to the remaining shareholders of that corporation within such time as the rules and regulations may provide, and (b) that a licensed clinical social worker corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 25. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 10 members, five of whom shall be certified public accountants, one of whom shall be a public accountant, and four of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint two of the public members, the five certified public accountant members, and the public accountant member qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. In appointing the five certified public accountant members, the Governor shall appoint members representing a cross section of the accounting profession with at least one member

representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four certified public accountants as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

This section shall become operative on July 1, 1997, and shall become inoperative on July 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2003, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 26. Section 5030 of the Business and Professions Code is amended to read:

5030. "Board" means the California Board of Accountancy.

SEC. 27. Section 5070.5 of the Business and Professions Code is amended to read:

5070.5. (a) A permit issued under this chapter to a certified public accountant or a public accountant expires 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 permitholder 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 satisfactory to the board that he or she has complied with the continuing education provisions of this chapter.

(b) A permit to practice as an accountancy partnership or an accountancy corporation expires at 12 midnight on the last day of the month in which the permit was initially issued during the second year of a two-year term if not renewed. To renew an unexpired permit, the permitholder 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 provide evidence satisfactory to the board that the accountancy partnership or accountancy corporation is in compliance with this chapter.

SEC. 28. Section 5070.6 of the Business and Professions Code is amended to read:

5070.6. Except as otherwise provided in this chapter, an expired permit may be renewed at any time within five years after its expiration upon the filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees and providing evidence satisfactory to the board of compliance as required by Section 5070.5. If the permit is renewed after its expiration, its holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the accrued renewal fees are paid, or on

the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the permit shall continue in effect through the date provided in Section 5070.5 that next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 29. Section 5133 of the Business and Professions Code is amended to read:

5133. All money in the Accountancy Fund is hereby appropriated to the California Board of Accountancy to carry out the provisions of this chapter. Each member of the board and each member of a committee shall receive a per diem and expenses as provided in Section 103.

SEC. 32. Section 7685.2 of the Business and Professions Code is amended to read:

7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The department shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the

disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

SEC. 33. Section 7685.3 of the Business and Professions Code is amended to read:

7685.3. The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Programs shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:

"FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, (ADDRESS), (TELEPHONE NUMBER)."

SEC. 34. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its

practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Board of Dental Examiners, the California State Board of Pharmacy, the Veterinary Medical Board, the California Board of Architectural Examiners, the Court Reporters Board of California, the Board of Behavioral Sciences, or the Board of Registered Nursing shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

SEC. 35. Section 7055 of the Health and Safety Code is amended to read:

7055. Every person, who for himself or herself or for another person, inters or incinerates a body or permits the same to be done, or removes any remains, other than cremated remains, from the primary registration district in which the death or incineration occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance or an officer of a duly accredited medical college engaged in official duties with respect to the body of a decedent who has willfully donated his or her body to the medical college from that registration district or county to another registration district or county, or within the same registration district or county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the interment occurred, or removes cremated remains from the premises on which the cremation occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows:

(a) For the first offense, by a fine of not less than ten dollars ($10) nor more than five hundred dollars ($500).

(b) For each subsequent offense, by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisonment in the county jail for not more than 60 days, or by both.

SEC. 36. Section 7100 of the Health and Safety Code is amended to read:

7100. (a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a durable power of attorney for health care executed pursuant to Division 4.7 (commencing with Section 4600) of the Probate Code.

(2) The competent surviving spouse.

(3) The sole surviving competent adult child of the decedent, or if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than one-half of the surviving adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving competent adult children.

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The surviving competent adult person or persons respectively in the next degrees of kindred. If there is more than one surviving competent adult person of the same degree of kindred, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving competent adult persons of the same degree of kindred.

(6) The public administrator when the deceased has sufficient assets.

(b) (1) If any person to whom the right of control has vested pursuant to subdivision (a) has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director

or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

SEC. 37. 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.

CHAPTER 658

An act to amend Section 8205 of the Government Code, to amend Sections 1569.156, 1584, 1599.73, 7100, 7151, and 24179.5 of, and to repeal Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code, to amend Sections 1302, 2105, 2355, 2356, 3200, 3201, 3203, 3204, 3206, 3207, 3208, 3210, 3211, 3722, 4050, 4100, 4121, 4122, 4123, 4128, 4203, 4206, 4260, and 4265 of, to amend the heading of Part 7 (commencing with Section 3200) of Division 4 of, to add Sections 1302.5, 3208.5, and 3212 to, to add Part 4 (commencing with Section 4500) to Division 4.5 of, and to add Division 4.7 (commencing with Section 4600) to, and to repeal Part 4 (commencing with Section 4600) and Part 5 (commencing with Section 4900) of Division 4.5 of, the Probate Code, and to amend Section 14110.8 of the Welfare and Institutions Code, relating to health care decisions.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8205 of the Government Code is amended to read:

8205. (a) It is the duty of a notary public, when requested:

(1) To demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, to protest them for nonacceptance and nonpayment, and, with regard only to the nonacceptance or nonpayment of bills and notes, to exercise any other powers and duties that by the law of nations and according to commercial usages, or by the laws of any other state, government, or country, may be performed by notaries.

(2) To take the acknowledgment or proof of advance health care directives, powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of that proof or acknowledgment, endorsed on or attached to the instrument. The certificate shall be signed by the notary public in the notary public's own handwriting. A notary public may not accept any acknowledgment or proof of any instrument that is incomplete.

(3) To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer, or board. Any deposition, affidavit, oath, or affirmation shall be signed by the notary public in the notary public's own handwriting.

(4) To certify copies of powers of attorney under Section 4307 of the Probate Code. The certification shall be signed by the notary public in the notary public's own handwriting.

(b) It shall further be the duty of a notary public, upon written request:

(1) To furnish to the Secretary of State certified copies of the notary's journal.

(2) To respond within 30 days of receiving written requests sent by certified mail from the Secretary of State's office for information relating to official acts performed by the notary.

SEC. 2. Section 1569.156 of the Health and Safety Code is amended to read:

1569.156. (a) A residential care facility for the elderly shall do all of the following:

(1) Not condition the provision of care or otherwise discriminate based on whether or not an individual has executed an advance directive, consistent with applicable laws and regulations.

(2) Provide education to staff on issues concerning advance directives.

(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.

(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph (3).

(b) For purposes of this section, "advance directive" means an "advance health care directive," as defined in Section 4605 of the Probate Code, or some other form of instruction recognized under state law specifically addressing the provision of health care.

SEC. 3. Section 1584 of the Health and Safety Code is amended to read:

1584. (a) An adult day health care center that provides care for adults with Alzheimer's disease and other dementias may install for the safety and security of those persons secured perimeter fences or egress control devices of the time-delay type on exit doors.

(b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any participant's departure from the center for longer than 30 seconds. Center staff may attempt to redirect a participant who attempts to leave the center.

(c) Adult day health care centers installing security devices pursuant to this section shall meet all of the following requirements:

(1) The center shall be subject to all fire and building codes, regulations, and standards applicable to adult day health care centers using egress control devices or secured perimeter fences and shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices or secured perimeter fences.

(2) The center shall maintain documentation of diagnosis by a physician of a participant's Alzheimer's disease or other dementia.

(3) The center shall provide staff training regarding the use and operation of the egress control devices utilized by the center, the protection of participants' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

(4) All admissions to the center shall continue to be voluntary on the part of the participant or with consent of the participant's conservator, an agent of the participant under a power of attorney for health care, or other person who has the authority to act on behalf of the participant. Persons who have the authority to act on behalf of the participant include the participant's spouse or closest available relative.

(5) The center shall inform all participants, conservators, agents, and persons who have the authority to act on behalf of participants of the use of security devices. The center shall maintain a signed participation agreement indicating the use of the devices and the consent of the participant, conservator, agent, or person who has the authority to act on behalf of the participant. The center shall retain the original statement in the participant's files at the center.

(6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.

(7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all center staff and volunteers providing participant care and supervision. This requirement does not preclude drills with participants as required by regulations.

(8) The center shall develop a plan of operation approved by the department that includes a description of how the center is to be equipped with egress control devices or secured perimeter fences that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, the following:

(A) A description of how the center will provide training for staff regarding the use and operation of the egress control device utilized by the center.

(B) A description of how the center will ensure the protection of the participant's personal rights consistent with applicable regulations.

(C) A description of the center's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.

(d) This section does not require an adult day health care center to use security devices in providing care for persons with Alzheimer's disease and other dementias.

SEC. 4. Section 1599.73 of the Health and Safety Code is amended to read:

1599.73. (a) Every contract of admission shall state that residents have a right to confidential treatment of medical information.

(b) The contract shall provide a means by which the resident may authorize the disclosure of information to specific persons, by attachment of a separate sheet that conforms to the specifications of Section 56 of the Civil Code. After admission, the facility shall encourage residents having capacity to make health care decisions to execute an advance health care directive in the event that he or she becomes unable to give consent for disclosure. The facility shall make available upon request to the long-term care ombudsman a list of newly admitted patients.

SEC. 5. Section 7100 of the Health and Safety Code is amended to read:

7100. (a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care governed by Division 4.7 (commencing with Section 4600) of the Probate Code.

(2) The surviving spouse.

(3) The sole surviving adult child of the decedent, or if there is more than one adult child of the decedent, one-half or more of the surviving adult children. However, less than one-half of the surviving adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving adult children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving adult children. For purposes of this section, "adult child" means a competent natural or adopted child of the decedent who has attained 18 years of age.

(4) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent.

(5) The surviving competent adult person or persons respectively in the next degrees of kindred. If there is more than one surviving

person of the same degree of kindred, the majority of those persons. Less than the majority of surviving persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving persons of the same degree of kindred.

(6) The public administrator when the deceased has sufficient assets.

(b) (1) If any person to whom the right of control has vested pursuant to subdivision (a) has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (6), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (6), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of paragraph (5) of subdivision (a), "competent adult" means an adult who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

SEC. 5.5. Section 7100 of the Health and Safety Code is amended to read:

7100. (a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care governed by Division 4.7 (commencing with Section 4600) of the Probate Code.

(2) The competent surviving spouse.

(3) The sole surviving competent adult child of the decedent, or if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than one-half of the surviving adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving competent adult children.

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The surviving competent adult person or persons respectively in the next degrees of kindred. If there is more than one surviving competent adult person of the same degree of kindred, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving competent adult persons of the same degree of kindred.

(6) The public administrator when the deceased has sufficient assets.

(b) (1) If any person to whom the right of control has vested pursuant to subdivision (a) has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child

of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

SEC. 6. Section 7151 of the Health and Safety Code is amended to read:

7151. (a) Except as provided in Section 7152, any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or part of the decedent's body or a pacemaker for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(1) The agent under a power of attorney for health care that expressly authorizes or does not limit the authority of the agent to make an anatomical gift of all or part of the principal's body or a pacemaker.

(2) The spouse of the decedent.

(3) An adult son or daughter of the decedent.

(4) Either parent of the decedent.

(5) An adult brother or sister of the decedent.

(6) A grandparent of the decedent.

(7) A guardian or conservator of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in subdivision (a) if any of the following occur:

(1) A person in a prior class is available at the time of death to make an anatomical gift.

(2) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent.

(3) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under subdivision (a) shall be made by a document of gift signed by the person or the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under subdivision (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make an anatomical gift under subdivision (a) is not an objection to the making of an anatomical gift.

SEC. 7. Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code is repealed.

SEC. 8. Section 24179.5 of the Health and Safety Code is amended to read:

24179.5. Notwithstanding any other provision of this chapter, this chapter does not apply to an adult in a terminal condition who executes a directive directing the withholding or withdrawal of life-sustaining procedures pursuant to Section 7188. To the extent of any conflict, Division 4.7 (commencing with Section 4600) of the Probate Code prevails over the provisions of this chapter.

SEC. 9. Section 1302 of the Probate Code is amended to read:

1302. With respect to a power of attorney governed by the Power of Attorney Law (Division 4.5 (commencing with Section 4000)), an appeal may be taken from any of the following:

(a) Any final order under Section 4541, except an order pursuant to subdivision (c) of Section 4541.

(b) An order dismissing the petition or denying a motion to dismiss under Section 4543.

SEC. 10. Section 1302.5 is added to the Probate Code, to read:

1302.5. With respect to an advance health care directive governed by the Health Care Decisions Law (Division 4.7 (commencing with Section 4600)), an appeal may be taken from any of the following:

(a) Any final order under Section 4766.

(b) An order dismissing the petition or denying a motion to dismiss under Section 4768.

SEC. 11. Section 2105 of the Probate Code is amended to read:

2105. (a) The court, in its discretion, may appoint for a ward or conservatee:

(1) Two or more joint guardians or conservators of the person.

(2) Two or more joint guardians or conservators of the estate.

(3) Two or more joint guardians or conservators of the person and estate.

(b) When joint guardians or conservators are appointed, each shall qualify in the same manner as a sole guardian or conservator.

(c) Subject to subdivisions (d) and (e):

(1) Where there are two guardians or conservators, both must concur to exercise a power.

(2) Where there are more than two guardians or conservators, a majority must concur to exercise a power.

(d) If one of the joint guardians or conservators dies or is removed or resigns, the powers and duties continue in the remaining joint guardians or conservators until further appointment is made by the court.

(e) Where joint guardians or conservators have been appointed and one or more are (1) absent from the state and unable to act, (2) otherwise unable to act, or (3) legally disqualified from serving, the court may, by order made with or without notice, authorize the remaining joint guardians or conservators to act as to all matters embraced within its order.

(f) If a custodial parent has been diagnosed as having a terminal condition, as evidenced by a declaration executed by a licensed

physician, the court, in its discretion, may appoint the custodial parent and a person nominated by the custodial parent as joint guardians of the person of the minor. However, this appointment shall not be made over the objection of a noncustodial parent without a finding that the noncustodial parent's custody would be detrimental to the minor, as provided in Section 3041 of the Family Code. It is the intent of the Legislature in enacting the amendments to this subdivision adopted during the 1995–96 Regular Session for a parent with a terminal condition to be able to make arrangements for the joint care, custody, and control of his or her minor children so as to minimize the emotional stress of, and disruption for, the minor children whenever the parent is incapacitated or upon the parent's death, and to avoid the need to provide a temporary guardian or place the minor children in foster care, pending appointment of a guardian, as might otherwise be required.

"Terminal condition," for purposes of this subdivision, means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, within reasonable medical judgment, result in death.

SEC. 12. Section 2355 of the Probate Code is amended to read:

2355. (a) If the conservatee has been adjudicated to lack the capacity to make health care decisions, the conservator has the exclusive authority to make health care decisions for the conservatee that the conservator in good faith based on medical advice determines to be necessary. The conservator shall make health care decisions for the conservatee in accordance with the conservatee's individual health care instructions, if any, and other wishes to the extent known to the conservator. Otherwise, the conservator shall make the decision in accordance with the conservator's determination of the conservatee's best interest. In determining the conservatee's best interest, the conservator shall consider the conservatee's personal values to the extent known to the conservator. The conservator may require the conservatee to receive the health care, whether or not the conservatee objects. In this case, the health care decision of the conservator alone is sufficient and no person is liable because the health care is administered to the conservatee without the conservatee's consent. For the purposes of this subdivision, "health care" and "health care decision" have the meanings provided in Sections 4615 and 4617, respectively.

(b) If prior to the establishment of the conservatorship the conservatee was an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing, the treatment required by the conservator under the provisions of this section shall be by an accredited practitioner of that religion.

SEC. 13. Section 2356 of the Probate Code is amended to read:

2356. (a) No ward or conservatee may be placed in a mental health treatment facility under this division against the will of the ward or conservatee. Involuntary civil placement of a ward or

conservatee in a mental health treatment facility may be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this subdivision.

(b) No experimental drug as defined in Section 111515 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under this division. Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 111515) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee under this division. Convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(d) No minor may be sterilized under this division.

(e) This chapter is subject to a valid and effective advance health care directive under the Health Care Decisions Law (Division 4.7 (commencing with Section 4600)).

SEC. 14. The heading of Part 7 (commencing with Section 3200) of Division 4 of the Probate Code is amended to read:

PART 7. CAPACITY DETERMINATIONS AND HEALTH CARE DECISIONS FOR ADULT WITHOUT CONSERVATOR

SEC. 15. Section 3200 of the Probate Code is amended to read:

3200. As used in this part:

(a) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a patient's physical or mental condition.

(b) "Health care decision" means a decision regarding the patient's health care, including the following:

(1) Selection and discharge of health care providers and institutions.

(2) Approval or disapproval of diagnostic tests, surgical procedures, programs of medication.

(3) Directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care, including cardiopulmonary resuscitation.

(c) "Health care institution" means an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

(d) "Patient" means an adult who does not have a conservator of the person and for whom a health care decision needs to be made.

SEC. 16. Section 3201 of the Probate Code is amended to read:

3201. (a) A petition may be filed to determine that a patient has the capacity to make a health care decision concerning an existing or continuing condition.

(b) A petition may be filed to determine that a patient lacks the capacity to make a health care decision concerning specified treatment for an existing or continuing condition, and further for an order authorizing a designated person to make a health care decision on behalf of the patient.

(c) One proceeding may be brought under this part under both subdivisions (a) and (b).

SEC. 17. Section 3203 of the Probate Code is amended to read:

3203. A petition may be filed by any of the following:

(a) The patient.

(b) The patient's spouse.

(c) A relative or friend of the patient, or other interested person, including the patient's agent under a power of attorney for health care.

(d) The patient's physician.

(e) A person acting on behalf of the health care institution in which the patient is located if the patient is in a health care institution.

(f) The public guardian or other county officer designated by the board of supervisors of the county in which the patient is located or resides or is temporarily living.

SEC. 18. Section 3204 of the Probate Code is amended to read:

3204. The petition shall state, or set forth by a medical declaration attached to the petition, all of the following known to the petitioner at the time the petition is filed:

(a) The condition of the patient's health that requires treatment.

(b) The recommended health care that is considered to be medically appropriate.

(c) The threat to the patient's condition if authorization for the recommended health care is delayed or denied by the court.

(d) The predictable or probable outcome of the recommended health care.

(e) The medically available alternatives, if any, to the recommended health care.

(f) The efforts made to obtain consent from the patient.

(g) If the petition is filed by a person on behalf of a health care institution, the name of the person to be designated to give consent to the recommended health care on behalf of the patient.

(h) The deficit or deficits in the patient's mental functions listed in subdivision (a) of Section 811 that are impaired, and an identification of a link between the deficit or deficits and the patient's inability to respond knowingly and intelligently to queries about the

recommended health care or inability to participate in a decision about the recommended health care by means of a rational thought process.

(i) The names and addresses, so far as they are known to the petitioner, of the persons specified in subdivision (b) of Section 1821.

SEC. 19. Section 3206 of the Probate Code is amended to read:

3206. (a) Not less than 15 days before the hearing, notice of the time and place of the hearing and a copy of the petition shall be personally served on the patient, the patient's attorney, and the agent under the patient's power of attorney for health care, if any.

(b) Not less than 15 days before the hearing, notice of the time and place of the hearing and a copy of the petition shall be mailed to the following persons:

(1) The patient's spouse, if any, at the address stated in the petition.

(2) The patient's relatives named in the petition at their addresses stated in the petition.

(c) For good cause, the court may shorten or waive notice of the hearing as provided by this section. In determining the period of notice to be required, the court shall take into account both of the following:

(1) The existing medical facts and circumstances set forth in the petition or in a medical declaration attached to the petition or in a medical declaration presented to the court.

(2) The desirability, where the condition of the patient permits, of giving adequate notice to all interested persons.

SEC. 20. Section 3207 of the Probate Code is amended to read:

3207. Notwithstanding Section 3206, the matter presented by the petition may be submitted for the determination of the court upon proper and sufficient medical declarations if the attorney for the petitioner and the attorney for the patient so stipulate and further stipulate that there remains no issue of fact to be determined.

SEC. 21. Section 3208 of the Probate Code is amended to read:

3208. (a) Except as provided in subdivision (b), the court may make an order authorizing the recommended health care for the patient and designating a person to give consent to the recommended health care on behalf of the patient if the court determines from the evidence all of the following:

(1) The existing or continuing condition of the patient's health requires the recommended health care.

(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical or mental health of the patient.

(3) The patient is unable to consent to the recommended health care.

(b) In determining whether the patient's mental functioning is so severely impaired that the patient lacks the capacity to make any

health care decision, the court may take into consideration the frequency, severity, and duration of periods of impairment.

(c) The court may make an order authorizing withholding or withdrawing artificial nutrition and hydration and all other forms of health care and designating a person to give or withhold consent to the recommended health care on behalf of the patient if the court determines from the evidence all of the following:

(1) The recommended health care is in accordance with the patient's best interest, taking into consideration the patient's personal values to the extent known to the petitioner.

(2) The patient is unable to consent to the recommended health care.

SEC. 22. Section 3208.5 is added to the Probate Code, to read:

3208.5. In a proceeding under this part:

(a) Where the patient has the capacity to consent to the recommended health care, the court shall so find in its order.

(b) Where the court has determined that the patient has the capacity to consent to the recommended health care, the court shall, if requested, determine whether the patient has accepted or refused the recommended health care, and whether the patient's consent to the recommended health care is an informed consent.

(c) Where the court finds that the patient has the capacity to consent to the recommended health care, but that the patient refuses consent, the court shall not make an order authorizing the recommended health care or designating a person to give consent to the recommended health care. If an order has been made authorizing the recommended health care and designating a person to give consent to the recommended health care, the order shall be revoked if the court determines that the patient has recovered the capacity to consent to the recommended health care. Until revoked or modified, the order is effective authorization for the recommended health care.

SEC. 23. Section 3210 of the Probate Code is amended to read:

3210. (a) This part is supplemental and alternative to other procedures or methods for obtaining consent to health care or making health care decisions, and is permissive and cumulative for the relief to which it applies.

(b) Nothing in this part limits the providing of health care in an emergency case in which the health care is required because (1) the health care is required for the alleviation of severe pain or (2) the patient has a medical condition that, if not immediately diagnosed and treated, will lead to serious disability or death.

(c) Nothing in this part supersedes the right that any person may have under existing law to make health care decisions on behalf of a patient, or affects the decisionmaking process of a health care institution.

SEC. 24. Section 3211 of the Probate Code is amended to read:

3211. (a) No person may be placed in a mental health treatment facility under the provisions of this part.

(b) No experimental drug as defined in Section 111515 of the Health and Safety Code may be prescribed for or administered to any person under this part.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on any person under this part.

(d) No person may be sterilized under this part.

(e) The provisions of this part are subject to a valid advance health care directive under the Health Care Decisions Law, Division 4.7 (commencing with Section 4600).

SEC. 25. Section 3212 is added to the Probate Code, to read:

3212. Nothing in this part shall be construed to supersede or impair the right of any individual to choose treatment by spiritual means in lieu of medical treatment, nor shall any individual choosing treatment by spiritual means, in accordance with the tenets and practices of that individual's established religious tradition, be required to submit to medical testing of any kind pursuant to a determination of capacity.

SEC. 26. Section 3722 of the Probate Code is amended to read:

3722. If after the absentee executes a power of attorney, the principal's spouse who is the attorney-in-fact commences a proceeding for dissolution, annulment, or legal separation, or a legal separation is ordered, the attorney-in-fact's authority is revoked. This section is in addition to the provisions of Sections 4154 and 4697.

SEC. 27. Section 4050 of the Probate Code is amended to read:

4050. (a) This division applies to the following:

(1) Durable powers of attorney, other than powers of attorney for health care governed by Division 4.7 (commencing with Section 4600).

(2) Statutory form powers of attorney under Part 3 (commencing with Section 4400).

(3) Any other power of attorney that incorporates or refers to this division or the provisions of this division.

(b) This division does not apply to the following:

(1) A power of attorney to the extent that the authority of the attorney-in-fact is coupled with an interest in the subject of the power of attorney.

(2) Reciprocal or interinsurance exchanges and their contracts, subscribers, attorneys-in-fact, agents, and representatives.

(3) A proxy given by an attorney-in-fact to another person to exercise voting rights.

(c) This division is not intended to affect the validity of any instrument or arrangement that is not described in subdivision (a).

SEC. 28. Section 4100 of the Probate Code is amended to read:

4100. This part applies to all powers of attorney under this division, subject to any special rules applicable to statutory form powers of attorney under Part 3 (commencing with Section 4400).

SEC. 29. Section 4121 of the Probate Code is amended to read:

4121. A power of attorney is legally sufficient if all of the following requirements are satisfied:

(a) The power of attorney contains the date of its execution.

(b) The power of attorney is signed either (1) by the principal or (2) in the principal's name by another adult in the principal's presence and at the principal's direction.

(c) The power of attorney is either (1) acknowledged before a notary public or (2) signed by at least two witnesses who satisfy the requirements of Section 4122.

SEC. 30. Section 4122 of the Probate Code is amended to read:

4122. If the power of attorney is signed by witnesses, as provided in Section 4121, the following requirements shall be satisfied:

(a) The witnesses shall be adults.

(b) The attorney-in-fact may not act as a witness.

(c) Each witness signing the power of attorney shall witness either the signing of the instrument by the principal or the principal's acknowledgment of the signature or the power of attorney.

SEC. 31. Section 4123 of the Probate Code is amended to read:

4123. (a) In a power of attorney, a principal may grant authority to an attorney-in-fact to act on the principal's behalf with respect to all lawful subjects and purposes or with respect to one or more express subjects or purposes. The attorney-in-fact may be granted authority with regard to the principal's property, personal care, health care, or any other matter.

(b) With regard to property matters, a power of attorney may grant authority to make decisions concerning all or part of the principal's real and personal property, whether owned by the principal at the time of the execution of the power of attorney or thereafter acquired or whether located in this state or elsewhere, without the need for a description of each item or parcel of property.

(c) With regard to personal care, a power of attorney may grant authority to make decisions relating to the personal care of the principal, including, but not limited to, determining where the principal will live, providing meals, hiring household employees, providing transportation, handling mail, and arranging recreation and entertainment.

SEC. 32. Section 4128 of the Probate Code is amended to read:

4128. (a) Subject to subdivision (b), a printed form of a durable power of attorney that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall contain, in not less than 10-point boldface type or a reasonable equivalent thereof, the following warning statement:

Notice to Person Executing Durable Power of Attorney

A durable power of attorney is an important legal document. By signing the durable power of attorney, you are authorizing another person to act for you, the principal. Before you sign this durable power of attorney, you should know these important facts:

Your agent (attorney-in-fact) has no duty to act unless you and your agent agree otherwise in writing.

This document gives your agent the powers to manage, dispose of, sell, and convey your real and personal property, and to use your property as security if your agent borrows money on your behalf.

Your agent will have the right to receive reasonable payment for services provided under this durable power of attorney unless you provide otherwise in this power of attorney.

The powers you give your agent will continue to exist for your entire lifetime, unless you state that the durable power of attorney will last for a shorter period of time or unless you otherwise terminate the durable power of attorney. The powers you give your agent in this durable power of attorney will continue to exist even if you can no longer make your own decisions respecting the management of your property.

You can amend or change this durable power of attorney only by executing a new durable power of attorney or by executing an amendment through the same formalities as an original. You have the right to revoke or terminate this durable power of attorney at any time, so long as you are competent.

This durable power of attorney must be dated and must be acknowledged before a notary public or signed by two witnesses. If it is signed by two witnesses, they must witness either (1) the signing of the power of attorney or (2) the principal's signing or acknowledgment of his or her signature. A durable power of attorney that may affect real property should be acknowledged before a notary public so that it may easily be recorded.

You should read this durable power of attorney carefully. When effective, this durable power of attorney will give your agent the right to deal with property that you now have or might acquire in the future. The durable power of attorney is important to you. If you do not understand the durable power of attorney, or any provision of it, then you should obtain the assistance of an attorney or other qualified person.

(b) Nothing in subdivision (a) invalidates any transaction in which a third person relied in good faith on the authority created by the durable power of attorney.

(c) This section does not apply to a statutory form power of attorney under Part 3 (commencing with Section 4400).

SEC. 33. Section 4203 of the Probate Code is amended to read:

4203. (a) A principal may designate one or more successor attorneys-in-fact to act if the authority of a predecessor attorney-in-fact terminates.

(b) The principal may grant authority to another person, designated by name, by office, or by function, including the initial and any successor attorneys-in-fact, to designate at any time one or more successor attorneys-in-fact.

(c) A successor attorney-in-fact is not liable for the actions of the predecessor attorney-in-fact.

SEC. 34. Section 4206 of the Probate Code is amended to read:

4206. (a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator of the estate, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of the principal's property except specified exclusions, the attorney-in-fact is accountable to the fiduciary as well as to the principal. Except as provided in subdivision (b), the fiduciary has the same power to revoke or amend the durable power of attorney that the principal would have had if not incapacitated, subject to any required court approval.

(b) If a conservator of the estate is appointed by a court of this state, the conservator can revoke or amend the durable power of attorney only if the court in which the conservatorship proceeding is pending has first made an order authorizing or requiring the fiduciary to modify or revoke the durable power of attorney and the modification or revocation is in accord with the order.

(c) This section is not subject to limitation in the power of attorney.

SEC. 35. Section 4260 of the Probate Code is amended to read:

4260. This article does not apply to statutory form powers of attorney under Part 3 (commencing with Section 4400).

SEC. 36. Section 4265 of the Probate Code is amended to read:

4265. A power of attorney may not authorize an attorney-in-fact to make, publish, declare, amend, or revoke the principal's will.

SEC. 37. Part 4 (commencing with Section 4500) is added to Division 4.5 of the Probate Code, to read:

PART 4. JUDICIAL PROCEEDINGS CONCERNING POWERS OF ATTORNEY

CHAPTER 1. GENERAL PROVISIONS

4500. A power of attorney is exercisable free of judicial intervention, subject to this part.

4501. The remedies provided in this part are cumulative and not exclusive of any other remedies provided by law.

4502. Except as provided in Section 4503, this part is not subject to limitation in the power of attorney.

4503. (a) Subject to subdivision (b), a power of attorney may expressly eliminate the authority of a person listed in Section 4540 to petition the court for any one or more of the purposes enumerated in Section 4541 if both of the following requirements are satisfied:

(1) The power of attorney is executed by the principal at a time when the principal has the advice of a lawyer authorized to practice law in the state where the power of attorney is executed.

(2) The principal's lawyer signs a certificate stating in substance:

"I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

(b) A power of attorney may not limit the authority of the attorney-in-fact, the principal, the conservator of the person or estate of the principal, or the public guardian to petition under this part.

4504. There is no right to a jury trial in proceedings under this division.

4505. Except as otherwise provided in this division, the general provisions in Division 3 (commencing with Section 1000) apply to proceedings under this division.

CHAPTER 2. JURISDICTION AND VENUE

4520. (a) The superior court has jurisdiction in proceedings under this division.

(b) The court in proceedings under this division is a court of general jurisdiction and the court, or a judge of the court, has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

4521. The court may exercise jurisdiction in proceedings under this division on any basis permitted by Section 410.10 of the Code of Civil Procedure.

4522. Without limiting Section 4521, a person who acts as an attorney-in-fact under a power of attorney governed by this division is subject to personal jurisdiction in this state with respect to matters relating to acts and transactions of the attorney-in-fact performed in this state or affecting property or a principal in this state.

4523. The proper county for commencement of a proceeding under this division shall be determined in the following order of priority:

(a) The county in which the principal resides.

(b) The county in which the attorney-in-fact resides.
(c) A county in which property subject to the power of attorney is located.
(d) Any other county that is in the principal's best interest.

CHAPTER 3. PETITIONS, ORDERS, APPEALS

4540. Subject to Section 4503, a petition may be filed under this part by any of the following persons:
(a) The attorney-in-fact.
(b) The principal.
(c) The spouse of the principal.
(d) A relative of the principal.
(e) The conservator of the person or estate of the principal.
(f) The court investigator, described in Section 1454, of the county where the power of attorney was executed or where the principal resides.
(g) The public guardian of the county where the power of attorney was executed or where the principal resides.
(h) The personal representative or trustee of the principal's estate.
(i) The principal's successor in interest.
(j) A person who is requested in writing by an attorney-in-fact to take action.
(k) Any other interested person or friend of the principal.
4541. A petition may be filed under this part for any one or more of the following purposes:
(a) Determining whether the power of attorney is in effect or has terminated.
(b) Passing on the acts or proposed acts of the attorney-in-fact, including approval of authority to disobey the principal's instructions pursuant to subdivision (b) of Section 4234.
(c) Compelling the attorney-in-fact to submit the attorney-in-fact's accounts or report the attorney-in-fact's acts as attorney-in-fact to the principal, the spouse of the principal, the conservator of the person or the estate of the principal, or to any other person required by the court in its discretion, if the attorney-in-fact has failed to submit an accounting or report within 60 days after written request from the person filing the petition.
(d) Declaring that the authority of the attorney-in-fact is revoked on a determination by the court of all of the following:
(1) The attorney-in-fact has violated or is unfit to perform the fiduciary duties under the power of attorney.
(2) At the time of the determination by the court, the principal lacks the capacity to give or to revoke a power of attorney.
(3) The revocation of the attorney-in-fact's authority is in the best interest of the principal or the principal's estate.
(e) Approving the resignation of the attorney-in-fact:

(1) If the attorney-in-fact is subject to a duty to act under Section 4230, the court may approve the resignation, subject to any orders the court determines are necessary to protect the principal's interests.

(2) If the attorney-in-fact is not subject to a duty to act under Section 4230, the court shall approve the resignation, subject to the court's discretion to require the attorney-in-fact to give notice to other interested persons.

(f) Compelling a third person to honor the authority of an attorney-in-fact.

4542. A proceeding under this part is commenced by filing a petition stating facts showing that the petition is authorized under this part, the grounds of the petition, and, if known to the petitioner, the terms of the power of attorney.

4543. The court may dismiss a petition if it appears that the proceeding is not reasonably necessary for the protection of the interests of the principal or the principal's estate and shall stay or dismiss the proceeding in whole or in part when required by Section 410.30 of the Code of Civil Procedure.

4544. (a) Subject to subdivision (b), at least 15 days before the time set for hearing, the petitioner shall serve notice of the time and place of the hearing, together with a copy of the petition, on the following:

(1) The attorney-in-fact if not the petitioner.

(2) The principal if not the petitioner.

(b) In the case of a petition to compel a third person to honor the authority of an attorney-in-fact, notice of the time and place of the hearing, together with a copy of the petition, shall be served on the third person in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

4545. In a proceeding under this part commenced by the filing of a petition by a person other than the attorney-in-fact, the court may in its discretion award reasonable attorney's fees to one of the following:

(a) The attorney-in-fact, if the court determines that the proceeding was commenced without any reasonable cause.

(b) The person commencing the proceeding, if the court determines that the attorney-in-fact has clearly violated the fiduciary duties under the power of attorney or has failed without any reasonable cause or justification to submit accounts or report acts to the principal or conservator of the estate or of the person, as the case may be, after written request from the principal or conservator.

SEC. 38. Part 4 (commencing with Section 4600) of Division 4.5 of the Probate Code is repealed.

SEC. 39. Division 4.7 (commencing with Section 4600) is added to the Probate Code, to read:

DIVISION 4.7. HEALTH CARE DECISIONS

PART 1. DEFINITIONS AND GENERAL

CHAPTER 1. SHORT TITLE AND DEFINITIONS

4600. This division may be cited as the Health Care Decisions Law.

4603. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this division.

4605. "Advance health care directive" or "advance directive" means either an individual health care instruction or a power of attorney for health care.

4607. (a) "Agent" means an individual designated in a power of attorney for health care to make a health care decision for the principal, regardless of whether the person is known as an agent or attorney-in-fact, or by some other term.

(b) "Agent" includes a successor or alternate agent.

4609. "Capacity" means a patient's ability to understand the nature and consequences of proposed health care, including its significant benefits, risks, and alternatives, and to make and communicate a health care decision.

4611. "Community care facility" means a "community care facility" as defined in Section 1502 of the Health and Safety Code.

4613. "Conservator" means a court-appointed conservator having authority to make a health care decision for a patient.

4615. "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a patient's physical or mental condition.

4617. "Health care decision" means a decision made by a patient or the patient's agent, conservator, or surrogate, regarding the patient's health care, including the following:

(a) Selection and discharge of health care providers and institutions.

(b) Approval or disapproval of diagnostic tests, surgical procedures, and programs of medication.

(c) Directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care, including cardiopulmonary resuscitation.

4619. "Health care institution" means an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

4621. "Health care provider" means an individual licensed, certified, or otherwise authorized or permitted by the law of this state to provide health care in the ordinary course of business or practice of a profession.

4623. "Individual health care instruction" or "individual instruction" means a patient's written or oral direction concerning a health care decision for the patient.

4625. "Patient" means an adult whose health care is under consideration, and includes a principal under a power of attorney for health care and an adult who has given an individual health care instruction or designated a surrogate.

4627. "Physician" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

4629. "Power of attorney for health care" means a written instrument designating an agent to make health care decisions for the principal.

4631. "Primary physician" means a physician designated by a patient or the patient's agent, conservator, or surrogate, to have primary responsibility for the patient's health care or, in the absence of a designation or if the designated physician is not reasonably available or declines to act as primary physician, a physician who undertakes the responsibility.

4633. "Principal" means an adult who executes a power of attorney for health care.

4635. "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health care needs.

4637. "Residential care facility for the elderly" means a "residential care facility for the elderly" as defined in Section 1569.2 of the Health and Safety Code.

4639. "Skilled nursing facility" means a "skilled nursing facility" as defined in Section 1250 of the Health and Safety Code.

4641. "Supervising health care provider" means the primary physician or, if there is no primary physician or the primary physician is not reasonably available, the health care provider who has undertaken primary responsibility for a patient's health care.

4643. "Surrogate" means an adult, other than a patient's agent or conservator, authorized under this division to make a health care decision for the patient.

CHAPTER 2. GENERAL PROVISIONS

4650. The Legislature finds the following:

(a) In recognition of the dignity and privacy a person has a right to expect, the law recognizes that an adult has the fundamental right to control the decisions relating to his or her own health care, including the decision to have life-sustaining treatment withheld or withdrawn.

(b) Modern medical technology has made possible the artificial prolongation of human life beyond natural limits. In the interest of protecting individual autonomy, this prolongation of the process of

dying for a person for whom continued health care does not improve the prognosis for recovery may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person.

(c) In the absence of controversy, a court is normally not the proper forum in which to make health care decisions, including decisions regarding life-sustaining treatment.

4651. (a) Except as otherwise provided, this division applies to health care decisions for adults who lack capacity to make health care decisions for themselves.

(b) This division does not affect any of the following:

(1) The right of an individual to make health care decisions while having the capacity to do so.

(2) The law governing health care in an emergency.

(3) The law governing health care for unemancipated minors.

4652. This division does not authorize consent to any of the following on behalf of a patient:

(a) Commitment to or placement in a mental health treatment facility.

(b) Convulsive treatment (as defined in Section 5325 of the Welfare and Institutions Code).

(c) Psychosurgery (as defined in Section 5325 of the Welfare and Institutions Code).

(d) Sterilization.

(e) Abortion.

4653. Nothing in this division shall be construed to condone, authorize, or approve mercy killing, assisted suicide, or euthanasia. This division is not intended to permit any affirmative or deliberate act or omission to end life other than withholding or withdrawing health care pursuant to an advance health care directive, by a surrogate, or as otherwise provided, so as to permit the natural process of dying.

4654. This division does not authorize or require a health care provider or health care institution to provide health care contrary to generally accepted health care standards applicable to the health care provider or health care institution.

4655. (a) This division does not create a presumption concerning the intention of a patient who has not made or who has revoked an advance health care directive.

(b) In making health care decisions under this division, a patient's attempted suicide shall not be construed to indicate a desire of the patient that health care be restricted or inhibited.

4656. Death resulting from withholding or withdrawing health care in accordance with this division does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary.

4657. A patient is presumed to have the capacity to make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate. This presumption is a presumption affecting the burden of proof.

4658. Unless otherwise specified in a written advance health care directive, for the purposes of this division, a determination that a patient lacks or has recovered capacity, or that another condition exists that affects an individual health care instruction or the authority of an agent or surrogate, shall be made by the primary physician.

4659. (a) Except as provided in subdivision (b), none of the following persons may make health care decisions as an agent under a power of attorney for health care or a surrogate under this division:

(1) The supervising health care provider or an employee of the health care institution where the patient is receiving care.

(2) An operator or employee of a community care facility or residential care facility where the patient is receiving care.

(b) The prohibition in subdivision (a) does not apply to the following persons:

(1) An employee who is related to the patient by blood, marriage, or adoption.

(2) An employee who is employed by the same health care institution, community care facility, or residential care facility for the elderly as the patient.

(c) A conservator under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) may not be designated as an agent or surrogate to make health care decisions by the conservatee, unless all of the following are satisfied:

(1) The advance health care directive is otherwise valid.

(2) The conservatee is represented by legal counsel.

(3) The lawyer representing the conservatee signs a certificate stating in substance:

"I am a lawyer authorized to practice law in the state where this advance health care directive was executed, and the principal or patient was my client at the time this advance directive was executed. I have advised my client concerning his or her rights in connection with this advance directive and the applicable law and the consequences of signing or not signing this advance directive, and my client, after being so advised, has executed this advance directive."

4660. A copy of a written advance health care directive, revocation of an advance directive, or designation or disqualification of a surrogate has the same effect as the original.

CHAPTER 3. TRANSITIONAL PROVISIONS

4665. Except as otherwise provided by statute:

(a) On and after July 1, 2000, this division applies to all advance health care directives, including, but not limited to, durable powers of attorney for health care and declarations under the Natural Death Act (former Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code), regardless of whether they were given or executed before, on, or after July 1, 2000.

(b) This division applies to all proceedings concerning advance health care directives commenced on or after July 1, 2000.

(c) This division applies to all proceedings concerning written advance health care directives commenced before July 1, 2000, unless the court determines that application of a particular provision of this division would substantially interfere with the effective conduct of the proceedings or the rights of the parties and other interested persons, in which case the particular provision of this division does not apply and prior law applies.

(d) Nothing in this division affects the validity of an advance health care directive executed before July 1, 2000, that was valid under prior law.

(e) Nothing in this division affects the validity of a durable power of attorney for health care executed on a printed form that was valid under prior law, regardless of whether execution occurred before, on, or after July 1, 2000.

PART 2. UNIFORM HEALTH CARE DECISIONS ACT

CHAPTER 1. ADVANCE HEALTH CARE DIRECTIVES

Article 1. General Provisions

4670. An adult having capacity may give an individual health care instruction. The individual instruction may be oral or written. The individual instruction may be limited to take effect only if a specified condition arises.

4671. (a) An adult having capacity may execute a power of attorney for health care, as provided in Article 2 (commencing with Section 4680). The power of attorney for health care may authorize the agent to make health care decisions and may also include individual health care instructions.

(b) The principal in a power of attorney for health care may grant authority to make decisions relating to the personal care of the principal, including, but not limited to, determining where the principal will live, providing meals, hiring household employees, providing transportation, handling mail, and arranging recreation and entertainment.

4672. (a) A written advance health care directive may include the individual's nomination of a conservator of the person or estate or both, or a guardian of the person or estate or both, for consideration by the court if protective proceedings for the individual's person or estate are thereafter commenced.

(b) If the protective proceedings are conservatorship proceedings in this state, the nomination has the effect provided in Section 1810 and the court shall give effect to the most recent writing executed in accordance with Section 1810, whether or not the writing is a written advance health care directive.

4673. A written advance health care directive is legally sufficient if all of the following requirements are satisfied:

(a) The advance directive contains the date of its execution.

(b) The advance directive is signed either (1) by the patient or (2) in the patient's name by another adult in the patient's presence and at the patient's direction.

(c) The advance directive is either (1) acknowledged before a notary public or (2) signed by at least two witnesses who satisfy the requirements of Sections 4674 and 4675.

4674. If the written advance health care directive is signed by witnesses, as provided in Section 4673, the following requirements shall be satisfied:

(a) The witnesses shall be adults.

(b) Each witness signing the advance directive shall witness either the signing of the advance directive by the patient or the patient's acknowledgment of the signature or the advance directive.

(c) None of the following persons may act as a witness:

(1) The patient's health care provider or an employee of the patient's health care provider.

(2) The operator or an employee of a community care facility.

(3) The operator or an employee of a residential care facility for the elderly.

(4) The agent, where the advance directive is a power of attorney for health care.

(d) Each witness shall make the following declaration in substance:

"I declare under penalty of perjury under the laws of California (1) that the individual who signed or acknowledged this advance health care directive is personally known to me, or that the individual's identity was proven to me by convincing evidence, (2) that the individual signed or acknowledged this advance directive in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud, or undue influence, (4) that I am not a person appointed as agent by this advance directive, and (5) that I am not the individual's health care provider, an employee of the individual's health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator

of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.''

(e) At least one of the witnesses shall be an individual who is neither related to the patient by blood, marriage, or adoption, nor entitled to any portion of the patient's estate upon the patient's death under a will existing when the advance directive is executed or by operation of law then existing.

(f) The witness satisfying the requirement of subdivision (e) shall also sign the following declaration in substance:

''I further declare under penalty of perjury under the laws of California that I am not related to the individual executing this advance health care directive by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the individual's estate upon his or her death under a will now existing or by operation of law.''

(g) The provisions of this section applicable to witnesses do not apply to a notary public before whom an advance health care directive is acknowledged.

4675. (a) If an individual is a patient in a skilled nursing facility when a written advance health care directive is executed, the advance directive is not effective unless a patient advocate or ombudsman, as may be designated by the Department of Aging for this purpose pursuant to any other applicable provision of law, signs the advance directive as a witness, either as one of two witnesses or in addition to notarization. The patient advocate or ombudsman shall declare that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing an advance directive.

(b) A witness who is a patient advocate or ombudsman may rely on the representations of the administrators or staff of the skilled nursing facility, or of family members, as convincing evidence of the identity of the patient if the patient advocate or ombudsman believes that the representations provide a reasonable basis for determining the identity of the patient.

4676. (a) A written advance health care directive or similar instrument executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction or of this state, is valid and enforceable in this state to the same extent as a written advance directive validly executed in this state.

(b) In the absence of knowledge to the contrary, a physician or other health care provider may presume that a written advance

health care directive or similar instrument, whether executed in another state or jurisdiction or in this state, is valid.

4677. A health care provider, health care service plan, health care institution, disability insurer, self-insured employee welfare plan, or nonprofit hospital plan or a similar insurance plan may not require or prohibit the execution or revocation of an advance health care directive as a condition for providing health care, admission to a facility, or furnishing insurance.

4678. Unless otherwise specified in an advance health care directive, a person then authorized to make health care decisions for a patient has the same rights as the patient to request, receive, examine, copy, and consent to the disclosure of medical or any other health care information.

Article 2. Powers of Attorney for Health Care

4680. A power of attorney for health care is legally sufficient if it satisfies the requirements of Section 4673.

4681. (a) Except as provided in subdivision (b), the principal may limit the application of any provision of this division by an express statement in the power of attorney for health care or by providing an inconsistent rule in the power of attorney.

(b) A power of attorney for health care may not limit either the application of a statute specifically providing that it is not subject to limitation in the power of attorney or a statute concerning any of the following:

(1) Statements required to be included in a power of attorney.

(2) Operative dates of statutory enactments or amendments.

(3) Formalities for execution of a power of attorney for health care.

(4) Qualifications of witnesses.

(5) Qualifications of agents.

(6) Protection of third persons from liability.

4682. Unless otherwise provided in a power of attorney for health care, the authority of an agent becomes effective only on a determination that the principal lacks capacity, and ceases to be effective on a determination that the principal has recovered capacity.

4683. Subject to any limitations in the power of attorney for health care:

(a) An agent designated in the power of attorney may make health care decisions for the principal to the same extent the principal could make health care decisions if the principal had the capacity to do so.

(b) The agent may also make decisions that may be effective after the principal's death, including the following:

(1) Making a disposition under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(2) Authorizing an autopsy under Section 7113 of the Health and Safety Code.

(3) Directing the disposition of remains under Section 7100 of the Health and Safety Code.

4684. An agent shall make a health care decision in accordance with the principal's individual health care instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

4685. Unless the power of attorney for health care provides otherwise, the agent designated in the power of attorney who is known to the health care provider to be reasonably available and willing to make health care decisions has priority over any other person in making health care decisions for the principal.

4686. Unless the power of attorney for health care provides a time of termination, the authority of the agent is exercisable notwithstanding any lapse of time since execution of the power of attorney.

4687. Nothing in this division affects any right the person designated as an agent under a power of attorney for health care may have, apart from the power of attorney, to make or participate in making health care decisions for the principal.

4688. Where this division does not provide a rule governing agents under powers of attorney, the law of agency applies.

4689. Nothing in this division authorizes an agent under a power of attorney for health care to make a health care decision if the principal objects to the decision. If the principal objects to the health care decision of the agent under a power of attorney, the matter shall be governed by the law that would apply if there were no power of attorney for health care.

4690. If the principal becomes wholly or partially incapacitated, or if there is a question concerning the capacity of the principal, the agent may consult with a person previously designated by the principal for this purpose, and may also consult with and obtain information needed to carry out the agent's duties from the principal's spouse, physician, attorney, a member of the principal's family, or other person, including a business entity or government agency, with respect to matters covered by the power of attorney for health care. A person from whom information is requested shall disclose relevant information to the agent. Disclosure under this section is not a waiver of any privilege that may apply to the information disclosed.

Article 3. Revocation of Advance Directives

4695. (a) A patient having capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health care provider.

(b) A patient having capacity may revoke all or part of an advance health care directive, other than the designation of an agent, at any time and in any manner that communicates an intent to revoke.

4696. A health care provider, agent, conservator, or surrogate who is informed of a revocation of an advance health care directive shall promptly communicate the fact of the revocation to the supervising health care provider and to any health care institution where the patient is receiving care.

4697. (a) If after executing a power of attorney for health care the principal's marriage to the agent is dissolved or annulled, the principal's designation of the former spouse as an agent to make health care decisions for the principal is revoked.

(b) If the agent's authority is revoked solely by subdivision (a), it is revived by the principal's remarriage to the agent.

4698. An advance health care directive that conflicts with an earlier advance directive revokes the earlier advance directive to the extent of the conflict.

CHAPTER 2. ADVANCE HEALTH CARE DIRECTIVE FORMS

4700. The form provided in Section 4701 may, but need not, be used to create an advance health care directive. The other sections of this division govern the effect of the form or any other writing used to create an advance health care directive. An individual may complete or modify all or any part of the form in Section 4701.

4701. The statutory advance health care directive form is as follows:

ADVANCE HEALTH CARE DIRECTIVE

(California Probate Code Section 4701)

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding donation of organs and the designation of your primary physician. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions

for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able, or reasonably available to make decisions for you. (Your agent may not be an operator or employee of a community care facility or a residential care facility where you are receiving care, or your supervising health care provider or employee of the health care institution where you are receiving care, unless your agent is related to you or is a coworker.)

Unless the form you sign limits the authority of your agent, your agent may make all health care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

(a) Consent or refuse consent to any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a physical or mental condition.

(b) Select or discharge health care providers and institutions.

(c) Approve or disapprove diagnostic tests, surgical procedures, and programs of medication.

(d) Direct the provision, withholding, or withdrawal of artificial nutrition and hydration and all other forms of health care, including cardiopulmonary resuscitation.

(e) Make anatomical gifts, authorize an autopsy, and direct disposition of remains.

Part 2 of this form lets you give specific instructions about any aspect of your health care, whether or not you appoint an agent. Choices are provided for you to express your wishes regarding the provision, withholding, or withdrawal of treatment to keep you alive, as well as the provision of pain relief. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes. If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out Part 2 of this form.

Part 3 of this form lets you express an intention to donate your bodily organs and tissues following your death.

Part 4 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. The form must be signed by two qualified witnesses or acknowledged before a notary public. Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health care directive or replace this form at any time.

* * * * * * * * * * * * * * * * *

PART 1
POWER OF ATTORNEY FOR HEALTH CARE

(1.1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health care decisions for me:

_____
(name of individual you choose as agent)

_____
(address) (city) (state) (ZIP Code)

_____
(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able, or reasonably available to make a health care decision for me, I designate as my first alternate agent:

_____
(name of individual you choose as first alternate agent)

_____
(address) (city) (state) (ZIP Code)

_____
(home phone) (work phone)

OPTIONAL: If I revoke the authority of my agent and first alternate agent or if neither is willing, able, or reasonably available to make a health care decision for me, I designate as my second alternate agent:

_____
(name of individual you choose as second alternate agent)

_____
(address) (city) (state) (ZIP Code)

(home phone) (work phone)

(1.2) AGENT'S AUTHORITY: My agent is authorized to make all health care decisions for me, including decisions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(1.3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician determines that I am unable to make my own health care decisions unless I mark the following box. If I mark this box ☐, my agent's authority to make health care decisions for me takes effect immediately.

(1.4) AGENT'S OBLIGATION: My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(1.5) AGENT'S POSTDEATH AUTHORITY: My agent is authorized to make anatomical gifts, authorize an autopsy, and direct disposition of my remains, except as I state here or in Part 3 of this form:

(Add additional sheets if needed.)

(1.6) NOMINATION OF CONSERVATOR: If a conservator of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able, or reasonably available to act as conservator, I nominate the alternate agents whom I have named, in the order designated.

PART 2
INSTRUCTIONS FOR HEALTH CARE

If you fill out this part of the form, you may strike any wording you do not want.

(2.1) END−OF−LIFE DECISIONS: I direct that my health care providers and others involved in my care provide, withhold, or withdraw treatment in accordance with the choice I have marked below:

☐ (a) Choice Not To Prolong Life

I do not want my life to be prolonged if (1) I have an incurable and irreversible condition that will result in my death within a relatively short time, (2) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (3) the likely risks and burdens of treatment would outweigh the expected benefits, OR

☐ (b) Choice To Prolong Life

I want my life to be prolonged as long as possible within the limits of generally accepted health care standards.

(2.2) RELIEF FROM PAIN: Except as I state in the following space, I direct that treatment for alleviation of pain or discomfort be provided at all times, even if it hastens my death:

_____

_____

(Add additional sheets if needed.)

(2.3) OTHER WISHES: (If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3
DONATION OF ORGANS AT DEATH
(OPTIONAL)

(3.1) Upon my death (mark applicable box):

☐ (a) I give any needed organs, tissues, or parts, OR
☐ (b) I give the following organs, tissues, or parts only.

(c) My gift is for the following purposes (strike any of the following you do not want):
(1) Transplant
(2) Therapy
(3) Research
(4) Education

PART 4
PRIMARY PHYSICIAN
(OPTIONAL)

(4.1) I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (ZIP Code)

(phone)

OPTIONAL: If the physician I have designated above is not willing, able, or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

_____
(name of physician)

_____
(address) (city) (state) (ZIP Code)

_____
(phone)

* * * * * * * * * * * * * * * *

PART 5

(5.1) EFFECT OF COPY: A copy of this form has the same effect as the original.

(5.2) SIGNATURE: Sign and date the form here:

_____ _____
(date) (sign your name)

_____ _____
(address) (print your name)

_____
(city) (state)

(5.3) STATEMENT OF WITNESSES: I declare under penalty of perjury under the laws of California (1) that the individual who signed or acknowledged this advance health care directive is personally known to me, or that the individual's identity was proven to me by convincing evidence, (2) that the individual signed or acknowledged this advance directive in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud, or undue influence, (4) that I am not a person appointed as agent by this advance directive, and (5) that I am not the individual's health care provider, an employee of the individual's health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.

First witness	Second witness
_____	_____
(print name)	(print name)
_____	_____
(address)	(address)
_____	_____
(city) (state)	(city) (state)
_____	_____
(signature of witness)	(signature of witness)
_____	_____
(date)	(date)

(5.4) ADDITIONAL STATEMENT OF WITNESSES: At least one of the above witnesses must also sign the following declaration:

I further declare under penalty of perjury under the laws of California that I am not related to the individual executing this advance health care directive by blood, marriage, or adoption, and to the best of my knowledge, I am not entitled to any part of the individual's estate upon his or her death under a will now existing or by operation of law.

(signature of witness) (signature of witness)

PART 6
SPECIAL WITNESS REQUIREMENT

(6.1) The following statement is required only if you are a patient in a skilled nursing facility—a health care facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. The patient advocate or ombudsman must sign the following statement:

STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN

I declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by Section 4675 of the Probate Code.

(date) (sign your name)

(address) (print your name)

(city) (state)

CHAPTER 3. HEALTH CARE SURROGATES

4711. A patient may designate an adult as a surrogate to make health care decisions by personally informing the supervising health care provider. An oral designation of a surrogate shall be promptly recorded in the patient's health care record and is effective only during the course of treatment or illness or during the stay in the health care institution when the designation is made.

4714. A surrogate, including a person acting as a surrogate, shall make a health care decision in accordance with the patient's individual health care instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the extent known to the surrogate.

4715. A patient having capacity at any time may disqualify another person, including a member of the patient's family, from acting as the patient's surrogate by a signed writing or by personally informing the supervising health care provider of the disqualification.

CHAPTER 4. DUTIES OF HEALTH CARE PROVIDERS

4730. Before implementing a health care decision made for a patient, a supervising health care provider, if possible, shall promptly communicate to the patient the decision made and the identity of the person making the decision.

4731. (a) A supervising health care provider who knows of the existence of an advance health care directive, a revocation of an advance health care directive, or a designation or disqualification of a surrogate, shall promptly record its existence in the patient's health care record and, if it is in writing, shall request a copy. If a copy is furnished, the supervising health care provider shall arrange for its maintenance in the patient's health care record.

(b) A supervising health care provider who knows of a revocation of a power of attorney for health care or a disqualification of a surrogate shall make a reasonable effort to notify the agent or surrogate of the revocation or disqualification.

4732. A primary physician who makes or is informed of a determination that a patient lacks or has recovered capacity, or that another condition exists affecting an individual health care instruction or the authority of an agent, conservator of the person, or surrogate, shall promptly record the determination in the patient's health care record and communicate the determination to the patient, if possible, and to a person then authorized to make health care decisions for the patient.

4733. Except as provided in Sections 4734 and 4735, a health care provider or health care institution providing care to a patient shall do the following:

(a) Comply with an individual health care instruction of the patient and with a reasonable interpretation of that instruction made by a person then authorized to make health care decisions for the patient.

(b) Comply with a health care decision for the patient made by a person then authorized to make health care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity.

4734. (a) A health care provider may decline to comply with an individual health care instruction or health care decision for reasons of conscience.

(b) A health care institution may decline to comply with an individual health care instruction or health care decision if the instruction or decision is contrary to a policy of the institution that is

expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health care decisions for the patient.

4735. A health care provider or health care institution may decline to comply with an individual health care instruction or health care decision that requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

4736. A health care provider or health care institution that declines to comply with an individual health care instruction or health care decision shall do all of the following:

(a) Promptly so inform the patient, if possible, and any person then authorized to make health care decisions for the patient.

(b) Unless the patient or person then authorized to make health care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider or institution that is willing to comply with the instruction or decision.

(c) Provide continuing care to the patient until a transfer can be accomplished or until it appears that a transfer cannot be accomplished. In all cases, appropriate pain relief and other palliative care shall be continued.

CHAPTER 5. IMMUNITIES AND LIABILITIES

4740. A health care provider or health care institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for any actions in compliance with this division, including, but not limited to, any of the following conduct:

(a) Complying with a health care decision of a person that the health care provider or health care institution believes in good faith has the authority to make a health care decision for a patient, including a decision to withhold or withdraw health care.

(b) Declining to comply with a health care decision of a person based on a belief that the person then lacked authority.

(c) Complying with an advance health care directive and assuming that the directive was valid when made and has not been revoked or terminated.

(d) Declining to comply with an individual health care instruction or health care decision, in accordance with Sections 4734 to 4736, inclusive.

4741. A person acting as agent or surrogate under this part is not subject to civil or criminal liability or to discipline for unprofessional conduct for health care decisions made in good faith.

4742. (a) A health care provider or health care institution that intentionally violates this part is subject to liability to the aggrieved

individual for damages of two thousand five hundred dollars ($2,500) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.

(b) A person who intentionally falsifies, forges, conceals, defaces, or obliterates an individual's advance health care directive or a revocation of an advance health care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke, or not to give an advance health care directive, is subject to liability to that individual for damages of ten thousand dollars ($10,000) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

(c) The damages provided in this section are cumulative and not exclusive of any other remedies provided by law.

4743. Any person who alters or forges a written advance health care directive of another, or willfully conceals or withholds personal knowledge of a revocation of an advance directive, with the intent to cause a withholding or withdrawal of health care necessary to keep the patient alive contrary to the desires of the patient, and thereby directly causes health care necessary to keep the patient alive to be withheld or withdrawn and the death of the patient thereby to be hastened, is subject to prosecution for unlawful homicide as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

PART 3. JUDICIAL PROCEEDINGS

CHAPTER 1. GENERAL PROVISIONS

4750. Subject to this division:

(a) An advance health care directive is effective and exercisable free of judicial intervention.

(b) A health care decision made by an agent for a principal is effective without judicial approval.

(c) A health care decision made by a surrogate for a patient is effective without judicial approval.

4751. The remedies provided in this part are cumulative and not exclusive of any other remedies provided by law.

4752. Except as provided in Section 4753, this part is not subject to limitation in an advance health care directive.

4753. (a) Subject to subdivision (b), an advance health care directive may expressly eliminate the authority of a person listed in Section 4765 to petition the court for any one or more of the purposes enumerated in Section 4766, if both of the following requirements are satisfied:

(1) The advance directive is executed by an individual having the advice of a lawyer authorized to practice law in the state where the advance directive is executed.

(2) The individual's lawyer signs a certificate stating in substance:

"I am a lawyer authorized to practice law in the state where this advance health care directive was executed, and _____ [insert name] was my client at the time this advance directive was executed. I have advised my client concerning his or her rights in connection with this advance directive and the applicable law and the consequences of signing or not signing this advance directive, and my client, after being so advised, has executed this advance directive."

(b) An advance health care directive may not limit the authority of the following persons to petition under this part:

(1) The conservator of the person, with respect to a petition relating to an advance directive, for a purpose specified in subdivision (b) or (d) of Section 4766.

(2) The agent, with respect to a petition relating to a power of attorney for health care, for a purpose specified in subdivision (b) or (c) of Section 4766.

4754. There is no right to a jury trial in proceedings under this division.

4755. Except as otherwise provided in this division, the general provisions in Division 3 (commencing with Section 1000) apply to proceedings under this division.

CHAPTER 2. JURISDICTION AND VENUE

4760. (a) The superior court has jurisdiction in proceedings under this division.

(b) The court in proceedings under this division is a court of general jurisdiction and the court, or a judge of the court, has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

4761. The court may exercise jurisdiction in proceedings under this division on any basis permitted by Section 410.10 of the Code of Civil Procedure.

4762. Without limiting Section 4761, a person who acts as an agent under a power of attorney for health care or as a surrogate under this division is subject to personal jurisdiction in this state with respect to matters relating to acts and transactions of the agent or surrogate performed in this state or affecting a patient in this state.

4763. The proper county for commencement of a proceeding under this division shall be determined in the following order of priority:

(a) The county in which the patient resides.

(b) The county in which the agent or surrogate resides.

(c) Any other county that is in the patient's best interest.

CHAPTER 3. PETITIONS, ORDERS, APPEALS

4765. Subject to Section 4753, a petition may be filed under this part by any of the following persons:

(a) The patient.

(b) The patient's spouse, unless legally separated.

(c) A relative of the patient.

(d) The patient's agent or surrogate.

(e) The conservator of the person of the patient.

(f) The court investigator, described in Section 1454, of the county where the patient resides.

(g) The public guardian of the county where the patient resides.

(h) The supervising health care provider or health care institution involved with the patient's care.

(i) Any other interested person or friend of the patient.

4766. A petition may be filed under this part for any one or more of the following purposes:

(a) Determining whether or not the patient has capacity to make health care decisions.

(b) Determining whether an advance health care directive is in effect or has terminated.

(c) Determining whether the acts or proposed acts of an agent or surrogate are consistent with the patient's desires as expressed in an advance health care directive or otherwise made known to the court or, where the patient's desires are unknown or unclear, whether the acts or proposed acts of the agent or surrogate are in the patient's best interest.

(d) Declaring that the authority of an agent or surrogate is terminated, upon a determination by the court that the agent or surrogate has made a health care decision for the patient that authorized anything illegal or upon a determination by the court of both of the following:

(1) The agent or surrogate has violated, has failed to perform, or is unfit to perform, the duty under an advance health care directive to act consistent with the patient's desires or, where the patient's desires are unknown or unclear, is acting (by action or inaction) in a manner that is clearly contrary to the patient's best interest.

(2) At the time of the determination by the court, the patient lacks the capacity to execute or to revoke an advance health care directive or disqualify a surrogate.

4767. A proceeding under this part is commenced by filing a petition stating facts showing that the petition is authorized under this part, the grounds of the petition, and, if known to the petitioner, the terms of any advance health care directive in question.

4768. The court may dismiss a petition if it appears that the proceeding is not reasonably necessary for the protection of the

interests of the patient and shall stay or dismiss the proceeding in whole or in part when required by Section 410.30 of the Code of Civil Procedure.

4769. (a) Subject to subdivision (b), at least 15 days before the time set for hearing, the petitioner shall serve notice of the time and place of the hearing, together with a copy of the petition, on the following:

(1) The agent or surrogate, if not the petitioner.

(2) The patient, if not the petitioner.

(b) In the case of a petition to compel a third person to honor the authority of an agent or surrogate, notice of the time and place of the hearing, together with a copy of the petition, shall be served on the third person in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

4770. The court in its discretion, on a showing of good cause, may issue a temporary order prescribing the health care of the patient until the disposition of the petition filed under Section 4766. If a power of attorney for health care is in effect and a conservator (including a temporary conservator) of the person is appointed for the principal, the court that appoints the conservator in its discretion, on a showing of good cause, may issue a temporary order prescribing the health care of the principal, the order to continue in effect for the period ordered by the court but in no case longer than the period necessary to permit the filing and determination of a petition filed under Section 4766.

4771. In a proceeding under this part commenced by the filing of a petition by a person other than the agent or surrogate, the court may in its discretion award reasonable attorney's fees to one of the following:

(a) The agent or surrogate, if the court determines that the proceeding was commenced without any reasonable cause.

(b) The person commencing the proceeding, if the court determines that the agent or surrogate has clearly violated the duties under the advance health care directive.

PART 4. REQUEST TO FORGO RESUSCITATIVE MEASURES

4780. (a) As used in this part:

(1) "Request to forgo resuscitative measures" means a written document, signed by (A) an individual, or a legally recognized surrogate health care decisionmaker, and (B) a physician, that directs a health care provider to forgo resuscitative measures for the individual.

(2) "Request to forgo resuscitative measures" includes a prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forgo resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR," a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

4781. As used in this part, "health care provider" includes, but is not limited to, the following:

(a) Persons described in Section 4621.

(b) Emergency response employees, including, but not limited to, firefighters, law enforcement officers, emergency medical technicians I and II, paramedics, and employees and volunteer members of legally organized and recognized volunteer organizations, who are trained in accordance with standards adopted as regulations by the Emergency Medical Services Authority pursuant to Sections 1797.170, 1797.171, 1797.172, 1797.182, and 1797.183 of the Health and Safety Code to respond to medical emergencies in the course of performing their volunteer or employee duties with the organization.

4782. A health care provider who honors a request to forgo resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, if the health care provider (a) believes in good faith that the action or decision is consistent with this part, and (b) has no knowledge that the action or decision would be inconsistent with a health care decision that the individual signing the request would have made on his or her own behalf under like circumstances.

4783. (a) Forms for requests to forgo resuscitative measures printed after January 1, 1995, shall contain the following:

"By signing this form, the surrogate acknowledges that this request to forgo resuscitative measures is consistent with the known desires of, and with the best interest of, the individual who is the subject of the form."

(b) A substantially similar printed form is valid and enforceable if all of the following conditions are met:

(1) The form is signed by the individual, or the individual's legally recognized surrogate health care decisionmaker, and a physician.

(2) The form directs health care providers to forgo resuscitative measures.

(3) The form contains all other information required by this section.

4784. In the absence of knowledge to the contrary, a health care provider may presume that a request to forgo resuscitative measures is valid and unrevoked.

4785. This part applies regardless of whether the individual executing a request to forgo resuscitative measures is within or outside a hospital or other health care institution.

4786. This part does not repeal or narrow laws relating to health care decisionmaking.

PART 5. ADVANCE HEALTH CARE DIRECTIVE REGISTRY

4800. (a) The Secretary of State shall establish a registry system through which a person who has executed a written advance health care directive may register in a central information center, information regarding the advance directive, making that information available upon request to any health care provider, the public guardian, or other person authorized by the registrant.

(b) Information that may be received and released is limited to the registrant's name, social security or driver's license or other individual identifying number established by law, if any, address, date and place of birth, the intended place of deposit or safekeeping of the written advance health care directive, and the name and telephone number of the agent and any alternative agent.

(c) The Secretary of State, at the request of the registrant, may transmit the information received regarding the written advance health care directive to the registry system of another jurisdiction as identified by the registrant.

(d) The Secretary of State may charge a fee to each registrant in an amount such that, when all fees charged to registrants are aggregated, the aggregated fees do not exceed the actual cost of establishing and maintaining the registry.

4801. The Secretary of State shall establish procedures to verify the identities of health care providers, the public guardian, and other authorized persons requesting information pursuant to Section 4800. No fee shall be charged to any health care provider, the public guardian, or other authorized person requesting information pursuant to Section 4800.

4802. The Secretary of State shall establish procedures to advise each registrant of the following:

(a) A health care provider may not honor a written advance health care directive until it receives a copy from the registrant.

(b) Each registrant must notify the registry upon revocation of the advance directive.

(c) Each registrant must reregister upon execution of a subsequent advance directive.

4803. Failure to register with the Secretary of State does not affect the validity of any advance health care directive.

4804. Registration with the Secretary of State does not affect the ability of the registrant to revoke the registrant's advance health care directive or a later executed advance directive, nor does registration

raise any presumption of validity or superiority among any competing advance directives or revocations.

4805. Nothing in this chapter shall be construed to require a health care provider to request from the registry information about whether a patient has executed an advance health care directive. Nothing in this chapter shall be construed to affect the duty of a health care provider to provide information to a patient regarding advance health care directives pursuant to any provision of federal law.

SEC. 41. Part 5 (commencing with Section 4900) of Division 4.5 of the Probate Code is repealed.

SEC. 42. Section 14110.8 of the Welfare and Institutions Code is amended to read:

14110.8. (a) For the purposes of this section:

(1) "Facility" means a nursing facility.

(2) "Patient" means a person who is a facility resident and a Medi-Cal beneficiary and whose facility care is being paid for in whole or in part by Medi-Cal.

(3) "Agent" means a person who manages, uses, or controls those funds or assets that legally may be used to pay the patient's share of cost and other charges not paid for by the Medi-Cal program.

(4) "Responsible party" means a person other than the patient or potential patient, who, by virtue of signing or cosigning an admissions agreement of a nursing facility, either together with, or on behalf of, a potential patient, becomes personally responsible or liable for payment of any portion of the charges incurred by the patient while in the facility. A person who signs or cosigns a facility's admissions agreement by virtue of being an agent under a power of attorney for health care or an attorney-in-fact under a durable power of attorney executed by the potential patient, a conservator of the person or estate of the potential patient, or a representative payee, is not a responsible party under this section, and does not thereby assume personal responsibility or liability for payment of any charges incurred by the patient, except to the extent that the person, or the patient's conservator or representative payee is an agent as defined in paragraph (3).

(b) No facility may require or solicit, as a condition of admission into the facility, that a Medi-Cal beneficiary have a responsible party sign or cosign the admissions agreement. No facility may accept or receive, as a condition of admission into the facility, the signature or cosignature of a responsible party for a Medi-Cal beneficiary.

(c) A facility may require, as a condition of admission, where a patient has an agent, that the patient's agent sign or cosign the admissions agreement and agree to distribute to the facility promptly when due, the share of cost and any other charges not paid for by the Medi-Cal program which the patient or his or her agent has agreed to pay. The financial obligation of the agent shall be limited to the amount of the patient's funds received but not distributed to the

facility. A new agent who did not sign or cosign the admissions agreement shall be held responsible to distribute funds in accordance with this section.

(d) When a patient on non-Medi-Cal status converts to Medi-Cal coverage, any security deposit paid to the facility by the patient or on the patient's behalf as a condition of admission to the facility shall be returned and the obligations and responsibilities of the patient or responsible party shall be null and void.

(e) Any agent who willfully violates the requirements of this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two thousand five hundred dollars ($2,500) or by imprisonment in the county jail not to exceed 180 days, or both.

SEC. 43. This act shall become operative on July 1, 2000.

SEC. 44. Section 5.5 of this bill incorporates amendments to Section 7100 of the Health and Safety Code proposed by both this bill and AB 1677. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 7100 of the Health and Safety Code, and (3) this bill is enacted after AB 1677, in which case Section 7100 of the Health and Safety Code, as amended by AB 1677 shall become operative and remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 45. 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.

CHAPTER 659

An act to amend Section 6240 of, and add Section 6250.5 to, the Family Code, and to amend Sections 646.91, 12028.5, 13519, 13700, and 13710 of the Penal Code, relating to peace officers.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 6240 of the Family Code is amended to read:

6240. As used in this part:

(a) "Judicial officer" means a judge, commissioner, or referee designated under Section 6241.

(b) "Law enforcement officer" means one of the following officers who requests or enforces an emergency protective order under this part:

(1) A police officer.

(2) A sheriff's officer.

(3) A peace officer of the Department of the California Highway Patrol.

(4) A peace officer of the University of California Police Department.

(5) A peace officer of the California State University and College Police Departments.

(6) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2 of the Penal Code.

(7) A housing authority patrol officer, as defined in subdivision (d) of Section 830.31 of the Penal Code.

(8) A peace officer for a district attorney, as defined in Section 830.1 or 830.35 of the Penal Code.

(9) A parole officer, probation officer, or deputy probation officer, as defined in Section 830.5 of the Penal Code.

(10) A peace officer of a California Community College police department, as defined in subdivision (a) of Section 830.32.

(11) A peace officer employed by a police department of a school district, as defined in subdivision (b) of Section 830.32.

(c) "Abduct" means take, entice away, keep, withhold, or conceal.

SEC. 1.5. Section 6250.5 is added to the Family Code, to read:

6250.5. A judicial officer may issue an ex parte emergency protective order to a peace officer defined in subdivisions (a) and (b) of Section 830.32 if the issuance of that order is consistent with an existing memorandum of understanding between the college or school police department where the peace officer is employed and the sheriff or police chief of the city in whose jurisdiction the peace officer's college or school is located and the peace officer asserts reasonable grounds to believe that there is a demonstrated threat to campus safety.

SEC. 2. Section 646.91 of the Penal Code is amended to read:

646.91. (a) Notwithstanding any other law, a judicial officer may issue an ex parte emergency protective order where a peace officer, as defined in Section 830.1, 830.2, or 830.32, asserts reasonable grounds to believe that a person is in immediate and present danger of stalking based upon the person's allegation that he or she has been willfully, maliciously, and repeatedly followed or harassed by another person who has made a credible threat with the intent of placing the person who is the target of the threat in reasonable fear for his or her safety, or the safety of his or her immediate family, within the meaning of Section 646.9.

(b) A peace officer who requests an emergency protective order shall reduce the order to writing and sign it.

(c) An emergency protective order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the protected party resides.

(4) The following statements, which shall be printed in English and Spanish:

(A) "To the protected person: This order will last until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court at the address noted above. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application."

(B) "To the restrained person: This order will last until the date and time noted above. The protected party may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that the attorney may assist you in responding to the application."

(d) An emergency protective order may be issued under this section only if the judicial officer finds both of the following:

(1) That reasonable grounds have been asserted to believe that an immediate and present danger of stalking, as defined in Section 646.9, exists.

(2) That an emergency protective order is necessary to prevent the occurrence or reoccurrence of the stalking activity.

(e) An emergency protective order may include either of the following specific orders as appropriate:

(1) A harassment protective order as described in Section 527.6 of the Code of Civil Procedure.

(2) A workplace violence protective order as described in Section 527.8 of the Code of Civil Procedure.

(f) An emergency protective order shall be issued without prejudice to any person.

(g) An emergency protective order expires at the earlier of the following times:

(1) The close of judicial business on the fifth court day following the day of its issuance.

(2) The seventh calendar day following the day of its issuance.

(h) A peace officer who requests an emergency protective order shall do all of the following:

(1) Serve the order on the restrained person, if the restrained person can reasonably be located.

(2) Give a copy of the order to the protected person, or, if the protected person is a minor child, to a parent or guardian of the protected child if the parent or guardian can reasonably be located, or to a person having temporary custody of the child.

(3) File a copy of the order with the court as soon as practicable after issuance.

(i) A peace officer shall use every reasonable means to enforce an emergency protective order.

(j) A peace officer who acts in good faith to enforce an emergency protective order is not civilly or criminally liable.

(k) A peace officer who requests an emergency protective order under this section shall carry copies of the order while on duty.

(*l*) A peace officer described in subdivision (a) or (b) of Section 830.32 who requests an emergency protective order pursuant to this section shall also notify the sheriff or police chief of the city in whose jurisdiction the peace officer's college or school is located after issuance of the order.

(m) "Judicial officer," as used in this section, means a judge, commissioner, or referee.

(n) Nothing in this section shall be construed to permit a court to issue an emergency protective order prohibiting speech or other activities that are constitutionally protected or protected by the laws of this state or by the United States or activities occurring during a labor dispute, as defined by Section 527.3 of the Code of Civil Procedure, including but not limited to, picketing and hand billing.

(o) The Judicial Council shall develop forms, instructions, and rules for the scheduling of hearings and other procedures established pursuant to this section.

(p) Any intentional disobedience of any emergency protective order granted under this section is punishable pursuant to Section 166. Nothing in this subdivision shall be construed to prevent punishment under Section 646.9, in lieu of punishment under this section, if a violation of Section 646.9 is also pled and proven.

SEC. 3. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Family violence" has the same meaning as domestic violence as defined in subdivision (b) of Section 13700, and also includes any abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any person who regularly resides or who regularly resided in the household.

The presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(4) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, a peace officer as defined in subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in Section 830.5, who is at the scene of a family violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the family violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this section shall deliver the firearm within 24 hours to the city police department or county sheriff's office in the jurisdiction where the college or school is located.

(d) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(e) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(f) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(g) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(h) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering

the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(i) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(j) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(k) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 4. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

(b) As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (b) of Section 830.2, any peace officer of the California State University Police Departments, as defined in subdivision (c) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(c) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The signs of domestic violence.

(6) The legal rights of, and remedies available to, victims of domestic violence.

(7) The use of an arrest by a private person in a domestic violence situation.

(8) Documentation, report writing, and evidence collection.

(9) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(10) Tenancy issues and domestic violence.

(11) The impact on children of law enforcement intervention in domestic violence.

(12) The services and facilities available to victims and batterers.

(13) The use and applications of this code in domestic violence situations.

(14) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(15) Verification and enforcement of stay-away orders.

(16) Cite and release policies.

(17) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

(d) The guidelines developed by the commission shall also incorporate the foregoing factors.

(e) (1) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission.

(2) Except as provided in paragraph (3), the training specified in paragraph (1) shall be completed no later than January 1, 1989.

(3) (A) The training for peace officers of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, shall be completed no later than January 1, 1992.

(B) The training for peace officers of the University of California Police Department and the California State University Police Departments, as defined in Section 830.2, shall be completed no later than January 1, 1993.

(C) The training for peace officers employed by a housing authority, as defined in subdivision (d) of Section 830.31, shall be completed no later than January 1, 1995.

(4) Local law enforcement agencies are encouraged to include, as a part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(f) (1) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

(2) The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(g) Each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence shall complete, every two years, an updated course of instruction on domestic violence that is developed according to the standards and guidelines developed pursuant to subdivision (d). The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.

SEC. 5. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period

of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the Department of the California Highway Patrol, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, a housing authority patrol officer, as defined in subdivision (d) of Section 830.31, or a peace officer as defined in subdivisions (a) and (b) of Section 830.32.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 6. Section 13710 of the Penal Code is amended to read:

13710. (a) (1) Law enforcement agencies shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, including orders which have not yet been served, issued pursuant to Section 136.2, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect.

(2) The police department of a community college or school district described in subdivision (a) or (b) of Section 830.32 shall notify the sheriff or police chief of the city in whose jurisdiction the department is located of any protection order served by the department pursuant to this section.

(b) The terms and conditions of the protection order remain enforceable, notwithstanding the acts of the parties, and may be changed only by order of the court.

(c) Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody.

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

CHAPTER 660

An act to amend Sections 243 and 273.5 of the Penal Code, relating to the crime of battery.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 243 of the Penal Code is amended to read:

243. (a) A battery is 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.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(c) (1) When a battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by a fine of not more than two thousand dollars ($2,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment in the state prison for 16 months, or two or three years.

(2) When the battery specified in paragraph (1) is committed against a peace officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman and the person committing the offense knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties, the battery is punishable by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding one year or in the state prison for 16 months, or two or three years, or by both that fine and imprisonment.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for two, three, or four years.

(e) (1) When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer's treatment program, as defined in Section 1203.097, or if none is available, another appropriate counseling program designated by the court. However, this provision shall not be construed as requiring a city, a county, or a city and county to provide a new program or higher level of service as contemplated by Section 6 of Article XIII B of the California Constitution.

(2) Upon conviction of a violation of this subdivision, if probation is granted, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in

whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

(3) Upon conviction of a violation of this subdivision, if probation is granted or the execution or imposition of the sentence is suspended and the person has been previously convicted of a violation of this subdivision and sentenced under paragraph (1), the person shall be imprisoned for not less than 48 hours in addition to the conditions in paragraph (1). However, the court, upon a showing of good cause, may elect not to impose the mandatory minimum imprisonment as required by this subdivision and may, under these circumstances, grant probation or order the suspension of the execution or imposition of the sentence.

(4) The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society's condemnation for these crimes of violence upon victims with whom a close relationship has been formed.

(f) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person who is either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses a valid certificate or license in accordance with the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(4) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(5) "Injury" means any physical injury which requires professional medical treatment.

(6) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

(7) "Lifeguard" means a person defined in paragraph (5) of subdivision (c) of Section 241.

(8) "Traffic officer" means any person employed by a city, county, or city and county to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(9) "Animal control officer" means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.

(10) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

(g) It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 2. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine up to six thousand dollars ($6,000) or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer's treatment program as a condition of probation, as specified in Section 1203.097.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 96 hours and that he or she participate in, for no less than one year, and successfully complete, a batterer's treatment program, as designated by the court pursuant to Section 1203.097. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, as required by this

subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court pursuant to Section 1203.097. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 2.5. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both that fine and imprisonment.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(e) Any person convicted of violating this section for acts occurring within seven years of a previous conviction under subdivision (a), or subdivision (d) of Section 243, or Section 243.4, 244, 244.5, or 245, shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars ($10,000).

(f) If probation is granted to any person convicted under subdivision (a) , the court shall impose probation consistent with the provisions of Section 1203.097.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any defendant convicted under subdivision (a) who has been convicted of any prior offense specified in subdivision (e), the court shall impose one of the following conditions of probation:

(1) If the defendant has suffered one prior conviction within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition thereof that he or she be imprisoned in a county jail for not less than 15 days.

(2) If the defendant has suffered two or more prior convictions within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition of probation, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 60 days.

(3) The court, upon a showing of good cause, may find that the mandatory imprisonment required by this subdivision shall not be imposed and shall state on the record its reasons for finding good cause.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, consistent with the terms of probation imposed pursuant to Section 1203.97, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 273.5 of the Penal Code proposed by both this bill and SB 218. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 273.5 of the Penal Code, and (3) this bill is enacted after SB 218, in which case Section 2 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 661

An act to amend Sections 527.6 and 527.8 of the Code of Civil Procedure, to amend Sections 145, 6221, 6380, 6380.5, 6381, and 6383 of the Family Code, to amend Sections 136.2, 836, 13701, and 13711 of the Penal Code, and to amend Section 213.5 of the Welfare and Institutions Code, relating to domestic violence.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.

As used in this subdivision:

(1) "Unlawful violence" is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. A temporary restraining order may be issued with or without notice upon an affidavit that, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. In the discretion of the court, and on a showing of good cause, a temporary restraining order issued under this section may include other named family or household members who reside with the plaintiff. A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, or, if the court extends the time for hearing under subdivision (d), not to exceed 22 days, unless otherwise modified or terminated by the court.

(d) Within 15 days, or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At

any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(f) In a proceeding under this section where there are allegations or threats of domestic violence, a support person may accompany a party in court and, where the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of domestic violence. The support person is not present as a legal adviser and shall not give legal advice. The support person shall assist the person who alleges he or she is a victim of domestic violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings where the person who alleges he or she is a victim of domestic violence and the other party must be present in close proximity. Nothing in this subdivision precludes the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(g) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(h) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

An order issued under this section shall, on request of the plaintiff, be served on the defendant, whether or not the defendant has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The plaintiff shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an

order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the defendant of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(i) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(j) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a plaintiff's right to use other existing civil remedies.

(*l*) The Judicial Council shall promulgate forms and instructions therefor, and rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

SEC. 2. Section 527.8 of the Code of Civil Procedure is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual.

(b) For the purposes of this section:

(1) "Unlawful violence" is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(2) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(c) Nothing in this section shall be construed to permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) For purposes of this section, the terms "employer" and "employee" mean persons defined in Section 350 of the Labor Code. The term "employer" also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. The term "employee" also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, the term "employee" also includes a volunteer or independent contractor who performs services for the employer at the employer's worksite.

(e) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the plaintiff also files an affidavit that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant, and that great or irreparable harm would result to an employee. In the discretion of the court, and on a showing of good cause, a temporary restraining order issued under this section may include other named family or household members who reside with the employee.

A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(f) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence or may file a cross-complaint under this section. At the hearing, the judge shall

receive any testimony that is relevant and may make an independent inquiry. Moreover, if the defendant is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the defendant. If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(g) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(h) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

(i) The court shall order the plaintiff or the attorney for the plaintiff to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(j) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(k) Nothing in this section shall be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(*l*) The Judicial Council shall develop forms, instructions, and rules for scheduling of hearings and other procedures established pursuant to this section. The forms for the petition and response shall be simple and concise.

(m) A temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and

approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(n) Information on any temporary restraining order or injunction relating to harassment or domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

SEC. 3. Section 145 of the Family Code is amended to read:

145. "State" means a state of the United States, the District of Columbia, or a commonwealth, territory, or insular possession subject to the jurisdiction of the United States.

SEC. 4. Section 6221 of the Family Code is amended to read:

6221. (a) Unless the provision or context otherwise requires, this division applies to any order described in this division, whether the order is issued in a proceeding brought pursuant to this division, in an action brought pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12), or in a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.

(b) Nothing in this division affects the jurisdiction of the juvenile court.

(c) Any order issued by a court to which this division applies shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

SEC. 5. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued under subdivision (g) of

Section 136.2 of the Penal Code shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment or domestic violence pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the court of another state, as defined in Section 145, or a military tribunal or tribe, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement agency.

(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 145, or on a reservation, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision shall not apply to a valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a military tribunal, or a tribe. Those orders shall, upon request, be registered pursuant to Section 6380.5.

SEC. 5.5. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing

systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued under subdivision (g) of Section 136.2 of the Penal Code shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment or domestic violence pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the court of another state, as defined in Section 145, or a military tribunal or tribe, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement agency.

(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to

applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 145, or on a reservation, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision shall not apply to a valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a military tribunal, or a tribe. Those orders shall, upon request, be registered pursuant to Section 6380.5.

SEC. 6. Section 6380.5 of the Family Code is amended to read:

6380.5. (a) A protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state or tribe, or under the law applicable to the military tribunal. There shall be a presumption of validity where an order appears authentic on its face.

(b) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall, upon request of the person in possession of the foreign protective order, be registered with a court of this state in order to be entered in the Domestic Violence Restraining Order System established under this chapter. The Judicial Council shall adopt rules of court to do the following:

(1) Set forth the process whereby a person in possession of a valid foreign protective or restraining order may voluntarily register the order with a court of this state for entry into the Domestic Violence Restraining Order System.

(2) Require the sealing of foreign protective orders and provide access only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

(c) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall be accorded full faith and credit by the courts of this state, and shall be enforced as set forth in Section 6381, as if it had been issued in this state.

SEC. 6.5. Section 6380.5 of the Family Code is amended to read:

6380.5. (a) A protective or restraining order related to domestic or family violence issued by a court of another state, as defined in

Section 145, a tribe, or a military tribunal, shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state or tribe, or under the law applicable to the military tribunal. There shall be a presumption of validity where an order appears authentic on its face.

(b) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall, upon request of the person in possession of the foreign protective order, be registered with a court of this state in order to be entered in the Domestic Violence Restraining Order System established under this chapter. The Judicial Council shall adopt rules of court to do the following:

(1) Set forth the process whereby a person in possession of a valid foreign protective or restraining order may voluntarily register the order with a court of this state for entry into the Domestic Violence Restraining Order System.

(2) Require the sealing of foreign protective orders and provide access only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

(c) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall be accorded full faith and credit by the courts of this state, and the term, as written shall be enforced as set forth in Section 6381, as if it had been issued in this state.

SEC. 7. Section 6381 of the Family Code is amended to read:

6381. (a) Notwithstanding Section 6380 and subject to subdivision (b), an order issued under this part is enforceable in any place in this state.

(b) An order issued under this part is not enforceable by a law enforcement agency of a political subdivision unless that law enforcement agency has received a copy of the order, or the officer enforcing the order has been shown a copy of the order or has obtained information, through the Domestic Violence Restraining Order System maintained by the Department of Justice, of the contents of the order, as described in subdivision (b).

(c) The data contained in the Domestic Violence Restraining Order System shall be deemed to be original, self-authenticating, documentary evidence of the court orders. Oral notification of the terms of the orders shall be sufficient notice for enforcement under subdivision (g) of Section 136.2 and Section 273.6 of the Penal Code.

SEC. 8. Section 6383 of the Family Code is amended to read:

6383. (a) A temporary restraining order or emergency protective order issued under this part shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement

officer who is present at the scene of reported domestic violence involving the parties to the proceeding.

(b) The petitioner shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and transmit to the issuing court.

(c) It is a rebuttable presumption that the proof of service was signed on the date of service.

(d) Upon receiving information at the scene of a domestic violence incident that a protective order has been issued under this part, or that a person who has been taken into custody is the respondent to such an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately inquire of the Department of Justice Domestic Violence Restraining Order System to verify the existence of the order.

(e) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order. Verbal notice of the terms of the order is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(f) If a report is required under Section 13730 of the Penal Code, or if no report is required, then in the daily incident log, the officer shall provide the name and assignment of the officer notifying the respondent pursuant to subdivision (e) and the case number of the order.

(g) Upon service of the order outside of the court, a law enforcement officer shall advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

(h) There shall be no civil liability on the part of, and no cause of action for, false arrest or false imprisonment against any peace officer who makes an arrest pursuant to a protective or restraining order which is regular upon its face, if the peace officer in making the arrest acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order. If there is more than one civil order regarding the same parties, the peace officer shall enforce the order which was issued last. If there are both civil and criminal orders regarding the same parties, the peace officer shall enforce the criminal order issued last. Nothing in this section shall be deemed to exonerate a peace officer from liability for the unreasonable use of force in the enforcement of the order. The immunities afforded by this section shall not affect the availability of any other immunity which may apply, including, but not limited to, Sections 820.2 and 820.4 of the Government Code.

SEC. 9. 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. The court or its designee shall transmit orders made under this subdivision to law enforcement personnel within one business day of the issuance of the order, pursuant to subdivision (a) of Section 6380 of the Family Code.

Any order issued by a court pursuant to this subdivision shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

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. 10. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under the Family Code, Section 527.6 of the Code of Civil Procedure, Section 213.5 of the Welfare and Institutions Code, Section 136.2 of this code, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, or of a domestic violence protective or restraining order issued by a court of another state, a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, a military tribunal, or a tribe and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer may arrest the person without a warrant and take that person into custody whether or not the violation occurred in the presence

of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Restraining Order System maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 12025 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 12025.

(2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 12025.

SEC. 10.5. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under the Family Code, Section 527.6 of the Code of Civil Procedure, Section 213.5 of the Welfare and Institutions Code, Section 136.2 of this code, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, or of a domestic violence protective or restraining order issued by a court of another state, a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, a military tribunal, or a tribe and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Restraining Order System maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has

been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 12025 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 12025.

(2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 12025.

SEC. 11. Section 13701 of the Penal Code is amended to read:

13701. (a) Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred.

(b) The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed. These policies also shall require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order issued under Chapter 4 (commencing with Section 2040) of Part 1 of Division 6, Division 10 (commencing with Section 6200), or Chapter 6 (commencing with Section 7700) of Part 3 of Division 12, of the Family Code, or Section 136.2 of this code, or by a court of any other state, a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, a military tribunal, or a tribe has been violated. These policies shall discourage, when appropriate, but not prohibit, dual arrests. Peace officers shall make reasonable efforts to identify the primary aggressor in any incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense. These arrest policies shall be developed, adopted, and implemented by July 1, 1996. Notwithstanding subdivision (d), law enforcement agencies shall develop these policies with the input of local domestic violence agencies.

(c) These existing local policies and those developed shall be in writing and shall be available to the public upon request and shall include specific standards for the following:

(1) Felony arrests.

(2) Misdemeanor arrests.

(3) Use of citizen arrests.

(4) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(5) Verification and enforcement of stay-away orders.

(6) Cite and release policies.

(7) Emergency assistance to victims, such as medical care, transportation to a shelter, or a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence.

(8) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.

(9) Furnishing written notice to victims at the scene, including, but not limited to, all of the following information:

(A) A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.

(B) A statement that, "For further information about a shelter you may contact _____."

(C) A statement that, "For information about other services in the community, where available, you may contact _____."

(D) A statement that, "For information about the California victims' compensation program, you may contact 1-800-777-9229."

(E) A statement informing the victim of domestic violence that he or she may ask the district attorney to file a criminal complaint.

(F) A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:

(i) An order restraining the attacker from abusing the victim and other family members.

(ii) An order directing the attacker to leave the household.

(iii) An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.

(iv) An order awarding the victim or the other parent custody of or visitation with a minor child or children.

(v) An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.

(vi) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.

(vii) An order directing the defendant to make specified debit payments coming due while the order is in effect.

(viii) An order directing that either or both parties participate in counseling.

(G) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

(H) In the case of an alleged violation of subdivision (e) of Section 243 or Section 261, 261.5, 262, 273.5, 286, 288a, or 289, a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

(i) The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.

(ii) A simple statement on the proper procedures for a victim to follow after a sexual assault.

(iii) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

(iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

(10) Writing of reports.

(d) In the development of these policies and standards, each local department is encouraged to consult with domestic violence experts, such as the staff of the local shelter for battered women and their children. Departments may utilize the response guidelines developed by the commission in developing local policies.

SEC. 12. Section 13711 of the Penal Code is amended to read:

13711. Whenever a protection order with respect to domestic violence incidents, including orders issued pursuant to Section 136.2 and restraining orders, is applied for or issued, it shall be the responsibility of the clerk of the superior court to distribute a pamphlet to the person who is to be protected by the order that includes the following:

(a) Information as specified in subdivision (i) of Section 13701.

(b) Notice that it is the responsibility of the victim to request notification of an inmate's release.

(c) Notice that the terms and conditions of the protection order remain enforceable, notwithstanding any acts of the parties, and may be changed only by order of the court.

(d) Notice that the protection order is enforceable in any state, in a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, or on a reservation, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of a protective order issued by a court of this state.

SEC. 13. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian, or current or former member of the child's household from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the

household; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining a parent, guardian, or current or former member of the child's household from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2).

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian or current or former member of the child's household from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed one year, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

SEC. 13.5. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated,

upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian, or current or former member of the child's household from molesting, attacking, striking, sexually assaulting, stalking, or battering the child or any other child in the household; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; and (3) enjoining a parent, guardian, or current or former member of the child's household from behavior, including contacting, threatening, or disturbing the peace of the child, that the court determines is necessary to effectuate orders under paragraph (1) or (2).

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure, the juvenile court may issue ex parte orders (1) enjoining any parent, guardian or current or former member of the child's household from molesting, attacking, threatening, sexually assaulting, stalking, or battering the child; (2) excluding any parent, guardian, or current or former member of the child's household from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child.

(c) In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service on the person to be restrained of the order to show cause. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (c), or (d) excluding a person from a residence or

dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) The juvenile court shall order any designated person or attorney to mail a copy of any order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the person seeking the restraining order or his or her attorney having jurisdiction over the residence of the person who has care, custody, and control of the child and other locations where the court determines that acts of domestic violence or abuse against the child or children are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued pursuant to subdivision (a), (b), (c), or (d) to any law enforcement officer responding to the scene of reported domestic violence or abuse.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) Information on any juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with subdivision (b) of Section 6380 of the Family Code.

SEC. 14. Section 5.5 of this bill incorporates amendments to Section 6380 of the Family 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, 2000, (2) each bill amends Section 6380 of the Family Code, and (3) this bill is enacted after AB 59, in which case Section 5 of this bill shall not become operative.

SEC. 15. Section 6.5 of this bill incorporates amendments to Section 6380.5 of the Family Code proposed by both this bill and SB 218. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 6380.5 of the Family Code, and (3) this bill is enacted after SB 218, in which case Section 6 of this bill shall not become operative.

SEC. 16. Section 10.5 of this bill incorporates amendments to Section 836 of the Penal Code proposed by both this bill and SB 218. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 836 of the Penal Code, and (3) this bill is enacted after SB 218, in which case Section 10 of this bill shall not become operative.

SEC. 17. Section 13.5 of this bill incorporates amendments to Section 213.5 of the Welfare and Institutions Code proposed by both this bill and AB 1671. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 213.5 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1671, in which case Section 13 of this bill shall not become operative.

SEC. 18. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 662

An act to amend Section 185 of the Code of Civil Procedure, to amend Sections 6304, 6343, 6380.5, and 6389 of the Family Code, to amend Section 124251 of the Health and Safety Code, to amend Sections 166, 273d, 273.5, 273.6, 836, 1328, 11163.3, 12021, and 12028.5 of, to repeal Sections 273.55 and 273.56 of, and to add Section 11163.6 to, the Penal Code, relating to domestic violence.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 185 of the Code of Civil Procedure is amended to read:

185. (a) Every written proceeding in a court of justice in this state shall be in the English language, and judicial proceedings shall be conducted, preserved, and published in no other. Nothing in this section shall prohibit a court from providing an unofficial translation of a court order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Part 1 (commencing with Section 6200) of Division 10 of the Family Code, or Section 136.2 of the Penal Code, in a language other than English.

(b) The Judicial Council shall, by July 1, 2001, make available to all courts, translations of domestic violence protective order forms in languages other than English, as the Judicial Council deems appropriate, for protective orders issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Part 1 (commencing with Section 6200) of Division 10 of the Family Code, or Section 136.2 of the Penal Code.

SEC. 2. Section 6304 of the Family Code is amended to read:

6304. When making a protective order, as defined in Section 6218, where both parties are present in court, the court shall inform both the petitioner and the respondent of the terms of the order, including notice that the respondent is prohibited from owning, possessing, purchasing or receiving or attempting to own, possess, purchase or receive a firearm, and including notice of the penalty for violation.

SEC. 3. Section 6343 of the Family Code is amended to read:

6343. (a) After notice and a hearing, the court may issue an order requiring the restrained party to participate in a batterer's program approved by the probation department as provided in Section 1203.097 of the Penal Code.

(b) The courts shall, in consultation with local domestic violence shelters and programs, develop a resource list of referrals to appropriate community domestic violence programs and services to be provided to each applicant for an order under this section.

SEC. 4. Section 6380.5 of the Family Code is amended to read:

6380.5. (a) An out-of-state protective or restraining order issued by a state, tribal, or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory. There shall be a presumption of validity where an order appears authentic on its face.

(b) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, tribe, or territory shall, upon request of the person in possession of the foreign protective order, be registered with a court of this state in order to be entered in the Domestic Violence Protective Order Registry

established under this chapter. The Judicial Council shall adopt rules of court to do the following:

(1) Set forth the process whereby a person in possession of a valid foreign protective order may voluntarily register the order with a court of this state for entry into the Domestic Violence Protective Order Registry.

(2) Require the sealing of foreign protective orders and provide access only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

(c) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, tribe, or territory shall be accorded full faith and credit by the courts of this state, and the terms, as written, shall be enforced as set forth in Section 6381, as if it had been issued in this state.

SEC. 4.5. Section 6380.5 of the Family Code is amended to read:

6380.5. (a) A protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state or tribe, or under the law applicable to the military tribunal. There shall be a presumption of validity where an order appears authentic on its face.

(b) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall, upon request of the person in possession of the foreign protective order, be registered with a court of this state in order to be entered in the Domestic Violence Restraining Order System established under this chapter. The Judicial Council shall adopt rules of court to do the following:

(1) Set forth the process whereby a person in possession of a valid foreign protective or restraining order may voluntarily register the order with a court of this state for entry into the Domestic Violence Restraining Order System.

(2) Require the sealing of foreign protective orders and provide access only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

(c) Any valid protective or restraining order related to domestic or family violence issued by a court of another state, as defined in Section 145, a tribe, or a military tribunal, shall be accorded full faith and credit by the courts of this state, and the terms, as written, shall be enforced as set forth in Section 6381, as if it had been issued in this state.

SEC. 5. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm while that protective order is in effect.

(b) The Judicial Council shall provide a notice on all forms requesting a protective order that, at the hearing for a protective order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c) If the respondent is present in court at a duly noticed hearing, the court shall order the respondent to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of the order, by either surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. If the respondent is not present at the hearing, the respondent shall relinquish the firearm within 48 hours after being served with the order. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 72 hours after receiving the order. In the event that it is necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

(d) If the respondent declines to relinquish possession of any firearm based upon the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified

period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is used against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are

in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(*l*) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

SEC. 6. Section 124251 of the Health and Safety Code is amended to read:

124251. (a) The Maternal and Child Health Branch of the State Department of Health Services shall fund, through a competitive selection process determined by the director, at least one agency to provide expert technical assistance and training on domestic violence issues and building agency capacity in order to obtain other funding for services for battered women and their children, including, but not limited to, grant writing and building coalitions.

(b) The Maternal and Child Health Branch of the State Department of Health Services shall fund at least one agency to conduct a statewide evaluation of the services funded through Section 124250.

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

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

SEC. 7. Section 166 of the Penal Code is amended to read:

166. (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.

(2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any

jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

(3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

(4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.

(5) Resistance willfully offered by any person to the lawful order or process of any court.

(6) The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.

(7) The publication of a false or grossly inaccurate report of the proceedings of any court.

(8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.

(b) (1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by phone, mail, or directly and who has been previously convicted of a violation of Section 646.9 shall be punished by imprisonment in a county jail for not more than one year, by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.

(3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.

(c) (1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, which is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) If a violation of paragraph (1) results in a physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(3) Paragraphs (1) and (2) shall apply to the following court orders:

(A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(B) An order excluding one party from the family dwelling or from the dwelling of the other.

(C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).

(4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or "a credible threat" of violence, as provided in subdivisions (c) and (d) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).

(d) (1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(e) (1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with the provisions of Section 1203.097 of the Penal Code.

(2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(B) That the defendant provide restitution to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(3) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision or subdivision (c), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support.

(4) Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of subdivision (c), the community property may not be used to discharge the

liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this subdivision, until all separate property of the offending spouse is exhausted.

(5) Any person violating any order described in subdivision (c), may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

SEC. 8. Section 273d of the Penal Code is amended to read:

273d. (a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars ($6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that offense provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the

defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 9. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000), or by both that fine and imprisonment.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(e) Any person convicted of violating this section, for acts occurring within seven years of a previous conviction under subdivision (a), or subdivision (d) of Section 243, or Section 243.4, 244, 244.5, or 245, shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars ($10,000).

(f) If probation is granted to any person convicted under subdivision (a), the court shall impose probation consistent with the provisions of Section 1203.097.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any defendant convicted under subdivision (a) who has been convicted of any prior offense specified in subdivision (e), the court shall impose one of the following conditions of probation:

(1) If the defendant has suffered one prior conviction within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition of probation, in addition to the

provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 15 days.

(2) If the defendant has suffered two or more prior convictions within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition of probation, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 60 days.

(3) The court, upon a showing of good cause, may find that the mandatory imprisonment required by this subdivision shall not be imposed and shall state on the record its reasons for finding good cause.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, consistent with the terms of probation imposed pursuant to Section 1203.97, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 9.5. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both that fine and imprisonment.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father under Sections 7611 and 7612 of the Family Code.

(e) Any person convicted of violating this section for acts occurring within seven years of a previous conviction under subdivision (a), or subdivision (d) of Section 243, or Section 243.4, 244, 244.5, or 245, shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars ($10,000).

(f) If probation is granted to any person convicted under subdivision (a) , the court shall impose probation consistent with the provisions of Section 1203.097.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any defendant convicted under subdivision (a) who has been convicted of any prior offense specified in subdivision (e), the court shall impose one of the following conditions of probation:

(1) If the defendant has suffered one prior conviction within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition thereof, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 15 days.

(2) If the defendant has suffered two or more prior convictions within the previous seven years for a violation of any offense specified in subdivision (e), it shall be a condition of probation, in addition to the provisions contained in Section 1203.097, that he or she be imprisoned in a county jail for not less than 60 days.

(3) The court, upon a showing of good cause, may find that the mandatory imprisonment required by this subdivision shall not be imposed and shall state on the record its reasons for finding good cause.

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, consistent with the terms of probation imposed pursuant to Section 1203.97, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this

subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 10. Section 273.55 of the Penal Code is repealed.

SEC. 11. Section 273.56 of the Penal Code is repealed.

SEC. 12. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both that fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interests of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a).

(4) Any order issued by another state that is recognized under Section 6380.5 of the Family Code.

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) that results in physical injury to a victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to subdivisions (a), (b), (d), and (e).

(g) (1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), (c), (d), or (e), the court shall impose probation consistent with the provisions of Section 1203.097, and the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 12.5. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both that fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interest of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order described in subdivision (a).

(4) Any order issued by another state that is recognized under Section 6380.5 of the Family Code.

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) that results in physical injury to a victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interest of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders described in subdivisions (a), (b), (d), and (e).

(g) (1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Sections 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), (c), (d), or (e), the court shall impose probation consistent with the provisions of Section 1203.097, and the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter or to a shelter for abused elder persons or dependent adults, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 13. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under the Family Code, Section 527.6 of the Code of Civil Procedure, Section 213.5 of the Welfare and Institutions Code, Section 136.2 of this code, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, or of a domestic violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act

in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Protection Order Registry maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 12025 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 12025.

(2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 12025.

SEC. 14. Section 1328 of the Penal Code is amended to read:

1328. (a) A subpoena may be served by any person, except that the defendant may not serve a subpoena in the criminal action to which he or she is a party, but a peace officer shall serve in his or her county any subpoena delivered to him or her for service, either on the part of the people or of the defendant, and shall, without delay, make a written return of the service, subscribed by him or her, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally.

(b) (1) When service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, unless the parent, guardian, conservator, or fiduciary or other specified person is the defendant, and on the minor if the minor is 12 years of age or older. The person so served shall have the obligation of producing the minor at the time and place designated in the subpoena. A willful failure to produce the minor is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure. The person so served shall be allowed the fees and expenses that are provided for subpoenaed witnesses.

(2) The court having jurisdiction of the case shall have the power to appoint a guardian ad litem to receive service of a subpoena of the child and shall have the power to produce the child ordered to court under this section.

(c) Whenever any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a criminal subpoena issued pursuant to this chapter requiring his or her attendance may be served either by delivering a copy to the peace officer personally or by delivering two

copies to his or her immediate superior or agent designated by his or her immediate superior to receive the service; or, in those counties where the local agencies have consented with the marshal's office or sheriff's office, where appropriate, to participate, by sending a copy by electronic means, including electronic mail, computer modem, facsimile, or other electronic means, to his or her immediate superior or agent designated by the immediate superior to receive the service. If the service is made by electronic means, the immediate superior or agency designated by his or her immediate superior shall acknowledge receipt of the subpoena by telephone or electronic means to the sender of origin. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than a time which will enable the peace officer to comply with the subpoena.

(d) If the immediate superior or his or her designated agent upon whom service is attempted to be made knows he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with the service, upon notifying the server of that fact.

(e) If the immediate superior or his or her agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he or she is not reasonably certain he or she can complete the service, he or she may refuse acceptance.

(f) If the immediate superior or agent upon whom service has been made, subsequently determines that he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his or her office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his or her failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.

(g) Notwithstanding subdivision (c), in the case of peace officers employed by the California Highway Patrol, if service is made upon the immediate superior or upon an agent designated by the immediate superior of the peace officer, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer on the officer's first workday following acceptance of service of process. In this case, failure of the immediate superior or the designated agent to deliver the subpoena shall not constitute a defect in service.

SEC. 15. Section 11163.3 of the Penal Code is amended to read:

11163.3. (a) A county may establish an interagency domestic violence death review team to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases. Interagency domestic violence death review teams have been used successfully to ensure that incidents of domestic violence and abuse are recognized and that agency involvement is reviewed to develop recommendations for policies and protocols for community prevention and intervention initiatives to reduce and eradicate the incidence of domestic violence.

(b) For purposes of this section, "abuse" has the meaning set forth in Section 6203 of the Family Code and "domestic violence" has the meaning set forth in Section 6211 of the Family Code.

(c) A county may develop a protocol that may be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to death or whether domestic violence had occurred prior to death, but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(d) County domestic violence death review teams shall be comprised of, but not limited to, the following:

(1) Experts in the field of forensic pathology.

(2) Medical personnel with expertise in domestic violence abuse.

(3) Coroners and medical examiners.

(4) Criminologists.

(5) District attorneys and city attorneys.

(6) Domestic violence shelter service staff and battered women's advocates.

(7) Law enforcement personnel.

(8) Representatives of local agencies that are involved with domestic violence abuse reporting.

(9) County health department staff who deal with domestic violence victims' health issues.

(10) Representatives of local child abuse agencies.

(11) Local professional associations of persons described in paragraphs (1) to (10), inclusive.

(e) An oral or written communication or a document shared within or produced by a domestic violence death review team related to a domestic violence death review is confidential and not subject to disclosure or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence death review team, or between a third party and a domestic violence death review team, is confidential and not subject to disclosure or discoverable by a third party. Notwithstanding the foregoing, recommendations of a domestic

violence death review team upon the completion of a review may be disclosed at the discretion of a majority of the members of the domestic violence death review team.

(f) Each organization represented on a domestic violence death review team may share with other members of the team information in its possession concerning the victim who is the subject of the review or any person who was in contact with the victim and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential. This provision shall permit the disclosure to members of the team of any information deemed confidential, privileged, or prohibited from disclosure by any other statute.

(g) Written and oral information may be disclosed to a domestic violence death review team established pursuant to this section. The team may make a request in writing for the information sought and any person with information of the kind described in paragraph (2) of this subdivision may rely on the request in determining whether information may be disclosed to the team.

(1) No individual or agency that has information governed by this subdivision shall be required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of information by the individual or agency that has the information.

(2) The following information may be disclosed pursuant to this subdivision:

(A) Notwithstanding Section 56.10 of the Civil Code, medical information.

(B) Notwithstanding Section 5328 of the Welfare and Institutions Code, mental health information.

(C) Notwithstanding Section 15633.5 of the Welfare and Institutions Code, information from elder abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(D) Notwithstanding Section 11167.5 of the Penal Code, information from child abuse reports and investigations, except the identity of persons who have made reports, which shall not be disclosed.

(E) State summary criminal history information, criminal offender record information, and local summary criminal history information, as defined in Sections 11075, 11105, and 13300 of the Penal Code.

(F) Notwithstanding Section 11163.2 of the Penal Code, information pertaining to reports by health practitioners of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of assaultive or abusive conduct, and information relating to whether a physician referred the person to local domestic violence services as recommended by Section 11161 of the Penal Code.

(G) Notwithstanding Section 827 of the Welfare and Institutions Code, information in any juvenile court proceeding.

(H) Information maintained by the Family Court, including information relating to the Family Conciliation Court Law pursuant to Section 1818 of the Family Code, and Mediation of Custody and Visitation Issues pursuant to Section 3177 of the Family Code.

(I) Information provided to probation officers in the course of the performance of their duties, including, but not limited to, the duty to prepare reports pursuant to Section 1203.10 of the Penal Code, as well as the information on which these reports are based.

(J) Notwithstanding Section 10825 of the Welfare and Institutions Code, records of in-home supportive services, unless disclosure is prohibited by federal law.

(3) The disclosure of written and oral information authorized under this subdivision shall apply notwithstanding Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, or the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the sexual assault victim-counselor privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, and the domestic violence victim-counselor privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code.

SEC. 16. Section 11163.6 is added to the Penal Code, to read:

11163.6. In order to ensure consistent and uniform results, data may be collected and summarized by the domestic violence death review teams to show the statistical occurrence of domestic violence deaths in the team's county that occur under the following circumstances:

(a) The deceased was a victim of a homicide committed by a current or former spouse, fiancé, or dating partner.

(b) The deceased was the victim of a suicide, was the current or former spouse, fiancé, or dating partner of the perpetrator and was also the victim of previous acts of domestic violence.

(c) The deceased was the perpetrator of the homicide of a former or current spouse, fiancé, or dating partner and the perpetrator was also the victim of a suicide.

(d) The deceased was the perpetrator of the homicide of a former or current spouse, fiancé, or dating partner and the perpetrator was also the victim of a homicide related to the domestic homicide incident.

(e) The deceased was a child of either the homicide victim or the perpetrator, or both.

(f) The deceased was a current or former spouse, fiancé, or dating partner of the current or former spouse, fiancé, or dating partner of the perpetrator.

(g) The deceased was a law enforcement officer, emergency medical personnel, or other agency responding to a domestic violence incident.

(h) The deceased was a family member, other than identified above, of the perpetrator.

(i) The deceased was the perpetrator of the homicide of a family member, other than identified above.

(j) The deceased was a person not included in the above categories and the homicide was related to domestic violence.

SEC. 17. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the

department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon

filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the

meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, Section 136.2, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from owning or possessing a firearm by the provisions of a protective order as defined in Section 6218 of the Family Code, Section 136.2 of the Penal Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision

does not apply unless a copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from owning or possessing or attempting to own or possess a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code..

(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 18. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means any of the following:

(A) Intentionally or recklessly to cause or attempt to cause bodily injury.

(B) Sexual assault.

(C) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(D) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

(2) "Domestic violence" means abuse perpetrated against any of the following persons:

(A) A spouse or former spouse.

(B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.

(C) A person with whom the respondent is having or has had a dating or engagement relationship.

(D) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(E) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(F) Any other person related by consanguinity or affinity within the second degree.

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, and a peace officer, as defined in Section 830.5, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence

related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the

event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 18.5. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means any of the following:

(A) Intentionally or recklessly to cause or attempt to cause bodily injury

(B) Sexual assault

(C) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(D) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

(2) "Domestic violence" means abuse perpetrated against any of the following persons:

(A) A spouse or former spouse.

(B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.

(C) A person with whom the respondent is having or has had a dating or engagement relationship.

(D) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(E) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(F) Any other person related by consanguinity or affinity within the second degree.

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (c) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, a peace officer as defined in subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in Section 830.5, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours

following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this section shall deliver the firearm within 24 hours to the city police department or county sheriff's office in the jurisdiction where the college or school is located.

(d) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(e) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (j), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(f) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(g) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the

whereabouts of the person and to comply with these notification requirements.

(h) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(i) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(j) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(k) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 19. Section 4.5 of this bill incorporates amendments to Section 6380.5 of the Family Code proposed by both this bill and AB 825. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 6380.5 of the Family Code, and (3) this bill is enacted after AB 825, in which case Section 4 of this bill shall not become operative.

SEC. 20. Section 9.5 of this bill incorporates amendments to Section 273.5 of the Penal Code proposed by both this bill and SB 563. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 273.5 of the Penal Code, and (3) this bill is enacted after SB 563, in which case Section 9 of this bill shall not become operative.

SEC. 21. Section 12.5 of this bill incorporates amendments to Section 273.6 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, 2000, (2) each bill amends Section 273.6 of the Penal Code, and (3) this bill is enacted after AB 59, in which case Section 12 of this bill shall not become operative.

SEC. 22. Section 18.5 of this bill incorporates amendments to Section 12028.5 of the Penal Code proposed by both this bill and SB

355. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12028.5 of the Penal Code, and (3) this bill is enacted after SB 355, in which case Section 18 of this bill shall not become operative.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 663

An act to amend, repeal, and add Sections 2331 and 2333 of, and to add and repeal Section 2333.5 of, the Streets and Highways Code, relating to highways.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 2331 of the Streets and Highways Code is amended to read:

2331. (a) The Highway Safety Act of 1973 (Title II of P.L. 93-87, 87 Stat. 250) has authorized appropriations for a number of programs relating to projects for the improvement of highway safety and the reduction of traffic congestion. These programs consist of the rail-highway crossings program (Section 203 of the Highway Safety Act of 1973), the pavement marking demonstration program (Sec. 151, Title 23, U.S.C.); projects for high-hazard locations, including, but not limited to, projects for bicycle and pedestrian safety and traffic calming measures in those locations (Sec. 152, Title 23, U.S.C.); program for the elimination of roadside obstacles (Sec. 153, Title 23, U.S.C.); and the federal-aid safer roads demonstration program (Sec. 405, Title 23, U.S.C.). The purpose of this chapter is to implement these programs in this state. The commission, the department, boards

of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure and expend federal funds in accordance with the intent of the federal act and of this chapter.

(b) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. Section 2331 is added to the Streets and Highways Code, to read:

2331. (a) The Highway Safety Act of 1973 (Title II of P.L. 93-87, 87 Stat. 250) has authorized appropriations for a number of programs relating to projects for the improvement of highway safety and the reduction of traffic congestion. These programs consist of the rail-highway crossings program (Section 203 of the Highway Safety Act of 1973), the pavement marking demonstration program (Sec. 151, Title 23, U.S.C.); projects for high-hazard locations (Sec. 152, Title 23, U.S.C.); program for the elimination of roadside obstacles (Sec. 153, Title 23, U.S.C.); and the federal-aid safer roads demonstration program (Sec. 405, Title 23, U.S.C.). The purpose of this chapter is to implement these programs in this state. The commission, the department, boards of supervisors, and city councils are authorized to do all things necessary in their respective jurisdictions to secure and expend federal funds in accordance with the intent of the federal act and of this chapter.

(b) This section shall become operative on January 1, 2002.

SEC. 3. Section 2333 of the Streets and Highways Code is amended to read:

2333. (a) In each annual proposed budget prepared pursuant to Section 165, there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Sections 2331 and 2333.5. The commission may allocate a portion of those funds each year for use on city streets and county roads. It is the intent of the Legislature that the commission allocate the total amount received from the federal government for all of the programs described in Sections 2331 and 2333.5 in a manner that, over a period of five years, makes not less than one million dollars ($1,000,000) of those funds available for use pursuant to Section 2333.5 and the remaining funds available for use in approximately equal amounts on state highways, local roads, and the program established under Section 2333.5. In addition, it is the intent of the Legislature that the commission shall apportion for use, in financing the railroad grade separation program described in Section 190, a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law, the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part, by funds described in Section 2331 shall be the same share it would be if no federal funds were involved and the crossing protection facilities

were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute, the Public Utilities Commission shall determine that share pursuant to this section.

(b) 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. 4. Section 2333 is added to the Streets and Highways Code, to read:

2333. (a) In each annual proposed budget prepared pursuant to Section 165, there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Section 2331. The commission may allocate a portion of those funds each year for use on city streets and county roads. It is the intent of the Legislature that the commission allocate the total amount received from the federal government for all of the programs described in Section 2331 in a manner that, over a period of five years, those funds are made available for use in approximately equal amounts on state highways and on local roads. In addition, it is the intent of the Legislature that the commission shall apportion for use, in financing the railroad grade separation program described in Section 190, a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law, the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part, by funds described in Section 2331 shall be the same share it would be if no federal funds were involved and the crossing protection facilities were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute, the Public Utilities Commission shall determine that share pursuant to this section.

(b) This section shall become operative on January 1, 2002.

SEC. 5. Section 2333.5 is added to the Streets and Highways Code, to read:

2333.5. (a) The department, in consultation with the Department of the California Highway Patrol, shall establish and administer a "Safe Routes to School" construction program pursuant to the authority granted under Section 152 of Title 23 of the United States Code and shall use federal transportation funds for construction of bicycle and pedestrian safety and traffic calming projects.

(b) The department shall make grants available to local governmental agencies under the program based on the results of a statewide competition that requires submission of proposals for funding and rates those proposals on all of the following factors:

(1) Demonstrated needs of the applicant.

(2) Potential of the proposal for reducing child injuries and fatalities.

(3) Potential of the proposal for encouraging increased walking and bicycling among students.

(4) Identification of safety hazards.

(5) Identification of current and potential walking and bicycling routes to school.

(6) Consultation and support for projects by school-based associations, local traffic engineers, local elected officials, law enforcement agencies, and school officials.

(c) With respect to the use of funds provided in subdivision (a), prior to the award of any construction grant or the department's use of those funds for a "Safe Routes to School" construction project encompassing a freeway, state highway or county road, the department shall consult with, and obtain approval from, the Department of the California Highway Patrol, ensuring that the "Safe Routes to School" proposal compliments the California Highway Patrol's Pedestrian Corridor Safety Program and is consistent with its statewide pedestrian safety statistical analysis.

(d) The department shall study the effectiveness of the program established under this section with particular emphasis on the program's effectiveness in reducing traffic accidents and its contribution to improving safety and reducing the number of child injuries and fatalities in the vicinity of the projects. Notwithstanding Section 7550.5 of the Government Code, the department shall submit a report to the Legislature on or before December 31, 2001, regarding the results of that study.

(e) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

CHAPTER 664

An act to amend Sections 69980, 69981, 69982, 69983, 69984, 69985, 69986, 69989, and 69993.5 of, and to add Section 69993.7 to, the Education Code, relating to student financial aid.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 69980 of the Education Code is amended to read:

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" has the same meaning as "designated beneficiary," as provided in paragraph (1) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34).

(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) "Board" means the Scholarshare Investment Board established pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 69984.

(f) "Golden State Scholarshare Trust" or "Scholarshare trust" means the trust created pursuant to this act.

(g) "Institution of higher education" has the same meaning as "eligible educational institution," as provided in paragraph (5) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34).

(h) "Participant" means an individual, trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act (Part 9 (commencing with Section 3900) of Division 4 of the Probate Code), a state or local government agency, or a legal representative of a participant who has entered into a participation agreement pursuant to this act. "Participant" also means an account owner.

(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 board 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 paragraph (3) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), 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.

SEC. 2. Section 69981 of the Education Code is amended to read:

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 board.

(c) The board, 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 board 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.

SEC. 3. Section 69982 of the Education Code is amended to read:

69982. In addition to effectuating and carrying out all of the powers granted by this act, the board 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 board from personal loss or liability resulting from a member's action or inaction as a member of the board.

(h) Adopt reasonable regulations for the administration of the Scholarshare trust.

(i) Set minimum and maximum investment levels.

(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 baccalaureate degree at an institution of higher education in California in five 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) 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, 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 and state and local government agencies operating bona fide scholarship programs for the benefit of beneficiaries to be named when the scholarships are awarded are not subject to maximum contribution limits.

SEC. 4. Section 69983 of the Education Code is amended to read:

69983. The Scholarshare trust may enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

(a) The board 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 board upon written request of the participant, 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 board.

(h) All contributions to Scholarshare accounts shall be in cash.

SEC. 5. Section 69984 of the Education Code is amended to read:

69984. (a) (1) The board 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

board 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 or a state or local government agency, 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 consists of the Treasurer, the Director of Finance, the Secretary of Education, a member of the Student Aid Commission appointed by the Governor, a member of the public appointed by the Governor, a representative from a California public institution of higher education appointed by the Senate Committee on Rules, and a representative from a California independent college or university or a state-approved college, university, or vocational/technical school appointed by the Speaker of the Assembly. The Treasurer shall serve as chair of the board. The board shall appoint an administrator of the program who shall serve at the pleasure 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 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.

SEC. 6. Section 69985 of the Education Code is amended to read:

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 board 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 (B) of paragraph (2) of subdivision (a) of Section 69984.

SEC. 7. Section 69986 of the Education Code is amended to read:

69986. For all purposes of California law, the following apply:

(a) The participant shall retain ownership of all contributions 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. Neither the contributions, nor any interest derived therefrom, 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. If cancellation occurs, the program administrator shall impose a penalty on any interest earned that is more than a de minimis amount.

(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 contribution limits provided for herein.

(e) If the beneficiary graduates from an institution of higher education and has no intention of further attendance at 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) Program administrators may also develop a method to make payment of qualified higher education expenses directly to beneficiaries in a manner that is consistent with applicable federal requirements and restrictions.

(h) Any amounts paid pursuant to the Golden State Scholarshare Trust that are not listed in this section shall be owned by the trust.

(i) 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 board or the terms of the participation agreement.

(j) Custodians under the California Uniform Transfers to Minors Act (Part 9 (commencing with Section 3900) of Division 4 of the Probate Code) may enter into participation agreements in accordance with regulations adopted by the board.

SEC. 8. Section 69989 of the Education Code is amended to read:

69989. (a) The board shall submit an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the Scholarshare trust by September 30 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 board:

(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.

SEC. 9. Section 69993.5 of the Education Code is amended to read:

69993.5. The board may adopt regulations for the purposes of this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For the purposes of the Administrative Procedure Act, including Section 11349.6 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1 of the Government Code. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any regulation adopted pursuant to this section shall not remain in effect more than 180 days unless the board complies with rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 10. Section 69993.7 is added to the Education Code, to read:

69993.7. No public funds nor any funds available pursuant to this article may be expended to pay for, nor shall the board enter into any agreement that provides for, the appearance of any elected official or declared candidate for public office in any paid advertisement promoting the act.

SEC. 11. Regulations adopted by, and contracts entered into by, the Scholarshare Investment Board's predecessor trustee, the Student Aid Commission, for purposes of the Golden State

Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code) are deemed to be regulations adopted by, and contracts entered into by, the Scholarshare Investment Board. Any of these contracts may be amended when authorized by the Scholarshare Investment Board. Until April 1, 2000, Section 10295 of, and Article 4 (commencing with Section 10335) and Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code shall not apply to any of these contract amendments, but on and after that date shall apply.

CHAPTER 665

An act to amend Section 7582.22 of the Business and Professions Code, relating to private security services.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 7582.22 of the Business and Professions Code is amended to read:

7582.22. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if he or she is qualified, or the person who is qualified to act as the licensee's manager, if the licensee is not qualified. Any licensee conducting business in this state whose primary office is located outside of this state shall do both of the following:

(1) Maintain an office in this state operated under the active direction, control, charge, or management of a qualified manager.

(2) Maintain at the office in this state all records required under this chapter and under rules adopted by the bureau.

(b) No person shall act as a qualified manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the director.

(2) Made a satisfactory showing to the director that he or she has the qualifications prescribed in Section 7582.8 and that none of the facts stated in Section 7582.24 or 7582.25 exist as to him or her.

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.

CHAPTER 666

An act to add Section 25502.1 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25502.1 is added to the Business and Professions Code, to read:

25502.1. Notwithstanding Section 25502, the listing of the names, addresses, telephone numbers and/or e-mail addresses, or web site addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed and/or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, provided:

(a) The listing does not also contain the retail price of the produce, and

(b) The listing is the only reference to the off-sale retailers in the direct communication, and

(c) The listing does not refer only to one off-sale retailer or only to off-sale retail establishments controlled directly or indirectly by the same off-sale retailer, and

(d) The listing is made by, and/or produced by, and/or paid for, exclusively by the nonretail industry member making the response.

For the purposes of this section, "nonretail industry member" is defined as a manufacturer, winegrower, distiller of alcoholic beverages, regardless of any other licenses held directly or indirectly by such person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone numbers and/or e-mail addresses, or web site addresses, of off-sale retailers otherwise authorized by this section by a wholesaler or by a wholesaler that also holds an importer's license shall constitute the furnishing of a thing of value or inducement to the listed off-sale retailers in violation of this division.

CHAPTER 667

An act to amend Sections 5322, 5324, 5325, 5361, 5362, 15100, 15140, and 15146 of, to add Sections 15150 and 15205 to, the Education Code, and to amend Section 53508.7 of the Government Code, relating to schools and community colleges.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 5322 of the Education Code is amended to read:

5322. Whenever an election is ordered, the governing board of the district or the board or officer authorized by this code to make such designations shall, concurrently with or after the order of election but not less than 123 days prior to the date of the election in the case of an election for governing board members, or, at least 88 days prior to the date of the election in the case of an election on a measure, including a bond measure, by resolution delivered to the county superintendent of schools and the officer conducting the election, or, in the case of an election on a measure, only to the officer conducting the election, specify the following, or such of the following as he or she or it may have authority to designate:

(a) The date of the election.

(b) The purpose of the election.

The resolution or resolutions shall be known as "specifications of the election order" and shall set forth the authority for ordering the election, the authority for the specification of the election order and the signature of the officer or the clerk of the board by law authorized to make the designations therein contained.

SEC. 2. Section 5324 of the Education Code is amended to read:

5324. At least 120 days prior to the date of the election in the case of an election for governing board members, the county superintendent of schools shall deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of:

(a) The order of election.

(b) The formal notice of election.

SEC. 3. Section 5325 of the Education Code is amended to read:

5325. Any school district election or community college district election, except a bond measure election, ordered to be held in accordance with this code shall be called by the county superintendent of schools having jurisdiction of the election by doing both of the following:

(a) Posting or publication of notices of election.

(b) Delivery of a copy of the formal notice of election to the county clerk or registrar of voters at least 120 days prior to the date of the election in the case of an election for governing board members.

SEC. 4. Section 5361 of the Education Code is amended to read:

5361. The formal notice of election for any school district election or community college district election, except a bond measure election, shall be prepared by the county superintendent of schools and shall contain the following:

(a) The date of the election.

(b) The purpose of the election.

SEC. 4.5. Section 5362 of the Education Code is amended to read:

5362. As an alternative to publication by newspaper pursuant to Section 5363, publication of formal notice may be effected pursuant to this section. Not later than 90 days prior to the date of any school district or community college district election, except a bond measure election, the county superintendent of schools having jurisdiction shall cause to be posted the formal notice of the election in public view at all of the following:

(a) Every schoolhouse in the territory, district or districts in which the election is to be held.

(b) At three public places in the territory, district or districts.

SEC. 5. Section 15100 of the Education Code is amended to read:

15100. Except as otherwise provided by law, the governing board of any school district or community college district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district or community college district, order an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

(a) The purchasing of school lots.

(b) The building or purchasing of school buildings.

(c) The making of alterations or additions to the school building or buildings other than as may be necessary for current maintenance, operation, or repairs.

(d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.

(e) The supplying of school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) The permanent improvement of the school grounds.

(g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds, or of state school building aid loans.

(h) The carrying out of the projects or purposes authorized in Section 17577 or 81613.

(i) The purchase of schoolbuses the useful life of which is at least 20 years.

(j) The demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location.

Any one or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered in its minutes, be united and voted upon as one single proposition.

SEC. 6. Section 15140 of the Education Code is amended to read:

15140. (a) Bonds of a school district or community college district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

(b) Notwithstanding subdivision (a) or another provision of this chapter, the board of supervisors of any county may provide by resolution that the governing board of any school district or community college district over which the county superintendent of schools has jurisdiction, and which has not received a qualified or negative certification in its most recent interim report, may issue and sell bonds on its own behalf pursuant to this chapter without further action of the board of supervisors or officers of that county or of any other county in which a portion of the school district or community college district is located. The county shall levy and collect taxes, pay bonds, and hold bond proceeds and tax funds pursuant to this chapter for the bonds issued and sold pursuant to this subdivision.

(c) Whenever the governing board of a school district or community college district issues bonds or refunding bonds payable from ad valorem taxes the governing board shall transmit the authorizing resolution and debt service schedule, including the debt service schedule for the bonds to be refunded, to the county auditor and county treasurer in sufficient time to permit the county to establish tax rates and necessary funds or accounts for the bonds.

SEC. 7. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the district. The governing board may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board shall comply with Sections 15147 and 15148. The bonds shall be

sold by the governing board no later than the date designated by the governing board 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 building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

(c) The governing board may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may be created in the county treasury or held by a fiscal agent appointed by the district for this purpose, separate from the building fund and the interest and sinking fund of the district. The proceeds deposited shall be drawn out on the order of the governing board or an officer of the district duly authorized by the governing board to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board or duly authorized officer, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(d) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount of the annual reserve permitted by Section 15250 or in any lesser amount, as the governing board shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(e) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

SEC. 8. Section 15150 is added to the Education Code, to read:

15150. (a) When the governing board of a school district or a community college district deems it in the best interests of the district, it may by resolution, upon such terms and conditions as it shall prescribe, issue notes, on a negotiated or competitive-bid basis, maturing within a period not to exceed one year, in anticipation of the sale of bonds authorized pursuant to Section 15100 or Section 15340 at the time the notes are issued. The proceeds from the sale of

the notes shall be used only for authorized purposes of the bonds or to repay outstanding notes authorized by this section.

(b) All notes issued and any renewal thereof shall be payable at a fixed time not more than five years from the date of the original issuance of the note. In the event that the sale of the bonds does not occur prior to the maturity of the notes issued in anticipation of the sale, the fiscal officer of the district, in order to meet the notes then maturing, shall issue renewal notes for this purpose. The renewal of a note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(c) Every note and any renewal thereof shall be payable from the proceeds of the sale of bonds or of any renewal of notes or from other funds of the district lawfully available for the purpose of repaying the notes, including state grants. The total amount of the notes or renewals thereof issued and outstanding may not at any time exceed the total amount of the unsold bonds.

(d) Interest on the notes shall be payable from proceeds of the sale of bonds, or from the tax lawfully levied to pay principal of and interest on the bonds.

(e) The original issuance of notes and any renewal thereof may be in the form of commercial paper notes. Each issuance of commercial paper notes to repay outstanding notes shall be deemed to be a renewal of notes subject only to he requirements of this section.

SEC. 9. Section 15205 is added to the Education Code, to read:

15205. For any bonds authorized at a school district election on November 5, 1991, and thereafter cancelled pursuant to this article without having been issued, the board of supervisors may order the cancellation annulled upon a finding that the issuance of the bonds is in the best interest of the district. Upon such order the district shall have the authority to issue the bonds pursuant to all of the terms and limitations of the original authorization, including the purposes for which such bonds may be issued, the maximum interest rate, and the maximum term to maturity, provided that the aggregate amount of bonds issued pursuant to such authorization does not exceed the amount originally authorized by the voters.

SEC. 10. Section 53508.7 of the Government Code is amended to read:

53508.7. (a) The bonds shall be sold at a public or private sale and at a price at, above, or below par, as the legislative body determines.

(b) Any bonds sold at a discount below the par value of the bonds shall be sold in compliance with the provisions of Section 53532.

(c) The private sale of bonds is limited to the sale of school districts' and community college districts' bonds pursuant to Sections 15140 or 15146 of the Education Code.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 668

An act to add Article 2.5 (commencing with Section 104190) to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, relating to disease.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Lyme disease is an infectious disease transmitted by the bite of the Western Blacklegged tick (ixodes pacificus), found in at lease 54 of 58 counties in California, and possibly by other arthropods.

(b) The disease is caused by a spirochete (borrelia burgdorferi), a spiral-shaped bacterium that may persist in the human body for several years if not treated properly with antibiotics.

(c) The United States Centers for Disease Control and Prevention (CDC) reports that Lyme disease continues to be a rapidly emerging infectious disease with more than 103,000 cases reported since 1982, a 25-fold increase of reported cases during that period.

(d) The CDC estimates that $60,000,000 may be spent annually for treatment of early acute stages of the disease but has not been able to estimate the costs associated with the later stages of the disease.

(e) In the initial phase, antibiotics can cure Lyme disease, but if not diagnosed in the early stages, severe permanent physical complications can occur and treatment is more difficult.

(f) Some persons affected by the advanced stages of Lyme disease have suffered irreparable damage to their health, careers, and family. Many victims suffer permanent physical damage due to misdiagnoses or ignorance of the disease.

(g) The CDC has determined that there are unstandardized diagnostic tests, that control methods are impractical, that knowledge of geographical distribution is incomplete, and the public and medical communities are uninformed.

(h) Therefore, the American Lyme Disease Foundation recommends that persons who live in highly epidemic areas or whose employment places them at high risk from Western Blacklegged tick bites, consult with their physicians regarding the use of the vaccine.

(i) Therefore, it is the policy of the State of California that people are encouraged to take all necessary steps to protect themselves from tick bites including, but not limited to, the following:

(1) Avoiding tick-infested areas.

(2) Wearing light-colored long pants and long sleeves when in tick-infested areas.

(3) Tucking shirt or blouse into pants and pants into socks.

(4) Using tick repellants.

(5) Frequently visually inspecting one's body for ticks.

SEC. 2. Article 2.5 (commencing with Section 104190) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

Article 2.5. Lyme Disease Advisory Committee and Information Service

104190. As used in this article the following definitions apply:

(a) "Disease" means Lyme disease recognized by the presence of the spirochete (borrelia burgdorferi), a spiral-shaped bacterium, in the human body.

(b) "Lyme Disease Support Network" means the groups organized through hospitals and volunteer organizations to counsel and provide support to those individuals who have contracted the disease.

104191. (a) There is hereby created in the state department the Lyme Disease Advisory Committee composed of , but not limited to, the following members:

(1) One from the Lyme Disease Resource Center.

(2) One from the Lyme Disease Support Network.

(3) One from the California Medical Association.

(4) One county public health official designated by the State Department of Health Services.

(5) One from the department.

(b) Members shall be appointed by, and serve at the pleasure of, the director .

(c) Members of the committee shall serve without compensation, but may be reimbursed for travel and necessary expenses incurred in the performance of their duties on the committee.

104192. The Lyme Disease Advisory Committee shall advise and make recommendations to the department regarding subjects including, but not limited to, all of the following:

(a) The content and geographic distribution of Lyme disease educational materials.

(b) How best to provide information and outreach to the medical community.

(c) How best to provide information and outreach to the general public.

(d) Populations at risk of contracting Lyme disease.

104193. The department shall do all of the following:

(a) Establish a Lyme disease information program that provides educational materials and information services on Lyme disease to the general public and the medical community. The Lyme disease information program shall provide information on all of the following:

(1) The disease in general, including its symptoms.

(2) Activities that increase one's risk of contracting the disease.

(3) The use of vaccines to prevent the disease.

(4) The ways to protect oneself from contracting the disease, including the use of protective clothing and tick repellants.

(b) Provide detailed information regarding Lyme disease and its treatment to physicians and surgeons in affected areas.

(c) Identify those segments of the population that are especially at risk of contracting Lyme disease and may provide workshops, with detailed information on the disease in those areas or communities, if recommended by the Lyme Disease Advisory Committee.

(d) Provide information to the Occupational Safety and Health Standards Board about risk factors for exposure to Lyme disease. The Occupational Safety and Health Standards Board may determine which employees should be required to receive the vaccine as a condition of employment, in order to reduce the potential liability of employers and protect the health of employees.

CHAPTER 669

An act to amend Section 10324.95 of, and to add Section 10234.6 to, the Insurance Code, relating to long-term care insurance.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 10234.6 is added to the Insurance Code, to read:

10234.6. (a) The commissioner, in consultation with representatives of the Health Insurance Counseling and Advocacy Program, shall annually prepare a consumer rate guide for long-term care insurance that shall include, but not be limited to, the following information:

(1) An explanation of the different kinds of long-term care insurance and coverages available to consumers.

(2) The premium history of each insurer that writes long-term care policies for all the kinds of long-term care insurance and coverages sold by the insurer.

(b) The consumer rate guide shall be published no later than December 1st of each year commencing with the year 2000, and shall be distributed using all of the following methods:

(1) Through Health Insurance Counseling and Advocacy Program (HICAP) offices.

(2) By telephone using the department's consumer toll-free telephone number.

(3) On the department's internet web site.

(c) In addition to the distribution methods described in subdivision (b), each insurer that markets long-term care policies in this state shall include in the premium section of the "Long-Term Care Insurance Personal Worksheet" required by Section 10234.95, a statement that reads as follows: "A rate guide is available that compares the policies sold by different insurers, the benefits provided in those policies, sample premiums, and the history of rate increases, if any, for those policies. You can obtain a copy of this rate guide by calling the Department of Insurance's consumer toll-free number (1-800-927-HELP), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free number (1-800-434-0222), or by accessing the Department of Insurance's Internet web site (www.insurance.ca.gov)."

(d) For purposes of this section, the department shall collect, and each insurer shall provide to the department, all of the following information for each long-term care policy and certificate, including all policies, whether issued by the insurer or purchased or acquired from another insurer, issued in the United States on or after January 1, 1990:

(1) Company name.
(2) Policy type.
(3) Policy benefits.
(4) Policy form identification.
(5) Dates sold.
(6) Premium rate increases requested.
(7) Premium rate increases approved.
(8) Dates of rate increase approvals.
(9) Sample premiums for different age groups.
(10) Any other information requested by the department.

(e) Insurers shall provide the information required pursuant to subdivision (d) no later than July 31 of each year commencing with the year 2000.

(f) Notwithstanding any other provision of law, the data submitted by insurers to the department pursuant to this section are public records, and shall be open to inspection by members of the public pursuant to the procedures of the California Public Records Act. However, a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, is not subject to this subdivision.

SEC. 2. Section 10234.95 of the Insurance Code is amended to read:

10234.95. (a) Every insurer or other entity marketing long-term care insurance shall:

(1) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

(2) Train its agents in the use of its suitability standards.

(3) Maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(b) The agent and insurer shall develop procedures that take into consideration, when determining whether the applicant meets the standards developed by the insurer, the following:

(1) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage.

(2) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs.

(3) The value, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(c) The issuer, and where an agent is involved, the agent, shall make reasonable efforts to obtain the information set out in subdivision (b). The efforts shall include presentation to the applicant, at or prior to application, of the "Long-Term Care Insurance Personal Worksheet," contained in the Long-Term Care Insurance Model Regulations of the National Association of Insurance Commissioners. The personal worksheet used by the insurer shall contain, at a minimum, the information in the NAIC worksheet in not less than 12-point type. The insurer may request the applicant to provide additional information to comply with its suitability standards. In the premium section of the personal worksheet, the insurer shall disclose all rate increases and rate increase requests for any prior policies it has sold in any state. A copy of the issuer's personal worksheet shall be filed and approved by the commissioner. A new personal worksheet shall be filed and approved by the commissioner each time a rate is increased in California. The new personal worksheet shall disclose the amount of the rate increase in California and all prior rate increases in California as well as all prior rate increases and rate increase requests or filings in any other state. The new personal worksheet shall be used by the insurer within 60 days of approval by the commissioner in place of the previously approved personal worksheet.

(d) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sale of employer group long-term care insurance to employees and their spouses and dependents.

(e) The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet is prohibited.

(f) The issuer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(g) Agents shall use the suitability standards developed by the insurer in marketing long-term care insurance.

(h) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. Alternatively, the issuers shall send the applicant a letter similar to the "Long-Term Care Insurance Suitability Letter" contained in the Long-Term Care Model Regulations of the National Association of Insurance Commissioners. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(i) The insurer shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number who chose to conform after receiving a suitability letter.

(j) This section shall not apply to life insurance policies that accelerate benefits for long-term care.

CHAPTER 670

An act to amend Section 15763 of the Welfare and Institutions Code, and to amend Section 14 of Chapter 946 of the Statutes of 1998, relating to adult protective services.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 15763 of the Welfare and Institutions Code is amended to read:

15763. (a) Each county shall establish an emergency response adult protective services program that shall provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing cases. The program

shall include policies and procedures to accomplish all of the following:

(1) Provision of case management services that include investigation of the protection issues, assessment of the person's concerns, needs, strengths, problems, and limitations, stabilization and linking with community services, and development of a service plan to alleviate identified problems utilizing counseling, monitoring, followup, and reassessment.

(2) Provisions for emergency shelter or in-home protection to guarantee a safe place for the elder or dependent adult to stay until the dangers at home can be resolved.

(3) Establishment of multidisciplinary teams to develop interagency treatment strategies, to ensure maximum coordination with existing community resources, to ensure maximum access on behalf of elders and dependent adults, and to avoid duplication of efforts.

(b) (1) A county shall respond immediately to any report of imminent danger to an elder or dependent adult residing in other than a long-term care facility, as defined in Section 9701 of the Welfare and Institutions Code, or a residential facility, as defined in Section 1502 of the Health and Safety Code. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall report to the local long-term care ombudsman program. Adult protective services staff shall consult, coordinate, and support efforts of the ombudsman program to protect vulnerable residents. Except as specified in paragraph (2), the county shall respond to all other reports of danger to an elder or dependent adult in other than a long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

(2) An immediate or 10-day in-person response is not required when the county, based upon an evaluation of risk determines, and documents, that the elder or dependent adult is not in imminent danger and that an immediate or 10-day in-person response is not necessary to protect the health or safety of the elder or dependent adult.

(3) Until criteria and standards are developed to implement paragraph (2), the county's evaluation pursuant to paragraph (2) shall include and document all of the following:

(A) The factors that led to the county's decision that an in-person response was not required.

(B) The level of risk to the elder or dependent adult, including collateral contacts.

(C) A review of previous referrals and other relevant information as indicated.

(D) The need for intervention at the time.

(E) The need for protective services.

(4) On or before April 1, 2001, the State Department of Social Services shall submit a report to the Legislature regarding the

number of cases, by county, out of the total number of cases reported to the counties, that were determined not to require an immediate or 10-day in-person response pursuant to paragraph (2), and the disposition of those cases.

(5) Paragraphs (2) and (3) shall become inoperative on January 1, 2001.

(c) A county shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services for the purpose of bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future. Case management services shall include the following, to the extent services are appropriate for the individual:

(1) Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, and developmental.

(2) Assessment of the person's concerns and needs on whom the report has been made and the concerns and needs of other members of the family and household.

(3) Analysis of problems and strengths.

(4) Establishment of a service plan for each person on whom the report has been made to alleviate the identified problems.

(5) Client input and acceptance of proposed service plans.

(6) Counseling for clients and significant others to alleviate the identified problems and to implement the service plan.

(7) Stabilizing and linking with community services.

(8) Monitoring and followup.

(9) Reassessments, as appropriate.

(d) To the extent resources are available, each county shall provide emergency shelter in the form of a safe haven or in-home protection for victims. Shelter and care appropriate to the needs of the victim shall be provided for frail and disabled victims who are in need of assistance with activities of daily living.

(e) Each county shall designate an adult protective services agency to establish and maintain multidisciplinary teams including, but not limited to, adult protective services, law enforcement, home health care agencies, hospitals, adult protective services staff, the public guardian, private community service agencies, public health agencies, and mental health agencies for the purpose of providing interagency treatment strategies.

(f) Each county shall provide tangible support services, to the extent resources are available, which may include, but not be limited to, emergency food, clothing, repair or replacement of essential appliances, plumbing and electrical repair, blankets, linens, and other household goods, advocacy with utility companies, and emergency response units.

SEC. 2. Section 14 of Chapter 946 of the Statutes of 1998 is amended to read:

Sec. 14. (a) The Director of Social Services shall adopt regulations as necessary to implement the provisions of this act .

(b) Notwithstanding any other provision of law, the State Department of Social Services may implement the provisions of this act through an all county letter or similar instructions from the Director of Social Services until regulations are adopted.

CHAPTER 671

An act to amend Sections 75071, 75080, and 75590 of, and to add Section 75094 to, the Government Code, relating to retired judges.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 75071 of the Government Code is amended to read:

75071. (a) Optional settlement one consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse, his or her surviving adult children in equal shares, or his or her estate.

(b) Optional settlement two consists of the right to have a retirement allowance paid him or her until his or her death and thereafter to his or her surviving spouse for life.

(c) Optional settlement three consists of the right to have a retirement allowance paid him or her until his or her death, and thereafter to have one-half of his or her retirement allowance paid to his or her surviving spouse for life.

(d) Optional settlement four consists of such other benefits as are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the Judges' Retirement System.

SEC. 2. Section 75080 of the Government Code is amended to read:

75080. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation, the retirement allowance otherwise payable to him or her shall continue and shall not be reduced, except as provided in this section.

(b) If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060, the retirement allowance otherwise payable to him or her shall, during the time he or she is entitled to

receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(c) Except as provided in subdivision (d), if a judge who is retired for disability engages in the practice of law or any other gainful occupation in which the compensation earned in any month when combined with the judge's allowance exceeds 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earnings in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(d) If a judge who is retired for disability engages in the practice of law or other gainful occupation that requires the discharge of duties substantially similar to those duties that he or she was found, pursuant to Section 75060, to be unable to discharge efficiently because of his or her mental or physical disability, the retirement allowance otherwise payable to him or her shall cease permanently.

(e) Persons affected by this section shall report all compensation earned in a form and manner required by the Board of Administration of the Public Employees' Retirement System under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(f) When a person described in subdivision (c) reaches the age at which he or she would have been eligible for retirement, pursuant to Section 75025, had he or she not incurred the disability, his or her retirement allowance shall be made equal to the amount it would be if not reduced under that subdivision, and shall not again be modified for any cause.

(g) A judge who is retired for disability or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement under Section 75060 shall not be eligible to receive service credit in another public retirement system or under this chapter or to be reinstated to this system.

(h) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

SEC. 3. Section 75094 is added to the Government Code, to read:

75094. (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (1) died in office, (2) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years

of service, and (3) was eligible to receive an allowance pursuant to Section 75025 or 75033.5, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

SEC. 4. Section 75590 of the Government Code is amended to read:

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 or who was retired for disability and receiving an allowance under Section 75560.4 shall receive a monthly allowance equal to 50 percent of the deceased judge's last monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(c) (1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the

Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement System II Law.

(3) The benefits provided by this subdivision are only payable to the surviving spouse of a judge who elects to come within this subdivision. That election may be made at any time while the judge is in office and, once made, the election is irrevocable.

CHAPTER 672

An act to amend Sections 11713.11 and 11729 of, and to add Section 11713.14 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Motor vehicles have been sold to dealers and other commercial purchasers through wholesale auto auctions for many years. In recent years, motor vehicle auctions that are open to members of the general public have become common.

(b) Consumers that are induced through advertisement and other means to attend and bid on vehicles offered for sale at public auto auctions generally lack the sophistication of dealers and other commercial purchasers who attend and purchase motor vehicles at auctions.

(c) Current Vehicle Code provisions governing the licensure of persons that sell motor vehicles at auctions are primarily designed to regulate wholesale motor vehicle auctions and are inadequate to properly regulate persons that conduct public auto auctions or protect consumers who purchase vehicles at public auto auctions.

(d) It is the intent of the Legislature in enacting this act to accomplish all of the following:

(1) Ensure that any person that auctions motor vehicles at the person's place of business for a commission, money, or other thing of value is licensed as a dealer.

(2) Strengthen the ability of the Department of Motor Vehicles to properly regulate persons that conduct public auto auctions.

(3) Protect unsophisticated consumers who are induced to attend and bid on motor vehicles sold at public auto auctions.

SEC. 2. Section 11713.11 of the Vehicle Code is amended to read:

11713.11. No holder of a dealer's license shall do any of the following when conducting an auction of vehicles to the public:

(a) Advertise that a vehicle will be auctioned to the public unless all of the following information is clearly and conspicuously disclosed in the advertisement:

(1) The date or the day of the week of the public auction, or if subdivision (b) applies to the auction, the date of the public auction.

(2) The location of the public auction.

(3) Whether a fee will be charged to attend the auction and the amount of that fee.

(4) The name and dealer number of the auctioning dealer.

(5) Whether a buyer's fee will be charged to a purchaser, in addition to the accepted auction bid price, and, if the fee is a set amount, the dollar amount of that fee. If the buyer's fee is not a set amount, the advertisement shall state the formula or percentage used to calculate the fee.

(b) If vehicles seized by a federal, state, or local public agency or authority are being advertised, advertise that a vehicle will be auctioned to the public unless, in addition to the information required by subdivision (a), the following information is clearly and conspicuously disclosed in the advertisement:

(1) A good faith estimate of the number of vehicles to be auctioned at that date.

(2) A good faith estimate of the number of vehicles seized by a federal, state, or local public agency or authority to be auctioned at that date.

(c) Fail, on the day of auction, to identify each vehicle seized by a federal, state, or local public agency or authority, either in a printed catalog or orally, before bidding begins on the vehicle.

(d) Include in the total price of an auctioned vehicle any costs to the purchaser at the completion of the sale, except the accepted auction bid price, taxes, vehicle registration fees, any charge for emission testing, not to exceed fifty dollars ($50), plus the actual fees charged to a consumer for a certificate pursuant to Section 44060 of the Health and Safety Code, any dealer document preparation charge not exceeding forty-five dollars ($45), and any buyer's fee.

(e) Charge a buyer's fee, unless the dealer conducting the auction delivers to any person permitted to submit bids, and at a time prior to accepting any bids from that person, a disclosure statement required by this subdivision and signed by that person. The disclosure statement, if the buyer's fee is a set amount, shall disclose the amount of the fee, or if the buyer's fee is not a set amount, disclose the formula or percentage used to calculate the fee. The disclosure statement shall be on a separate $8^1/_2$ x 11 inch sheet of paper. Except for the information set forth in this subdivision, the disclosure statement shall not contain any other text, except as necessary to identify the dealer conducting the auction sale and to disclose the amount, percentage, or formula used to calculate the buyer's fee, and to provide for the date and the person's acknowledgment of receipt. The heading shall be printed in no smaller than 24-point bold type

and the text of the statement shall be printed in no smaller than 12-point type and shall read substantially as follows:

BUYER'S FEE REQUIRED

A buyer's fee is an amount charged by the auctioning dealer for conducting the auction sale. If your bid price is accepted as the winning bid on any vehicle, you will be charged a buyer's fee in addition to the accepted bid price.

The buyer's fee that will be added to your accepted bid price is $_____.

OR

The buyer's fee that will be added to your accepted bid price will be calculated as follows (insert percentage or other formula for calculating the buyer's fee):

The buyer's fee is part of the purchase price and is subject to sales tax.

Date: _____ Signature of Bidder _____

(f) Fail to comply with or violate this chapter, Title 2.95 (commencing with Section 1812.600) of Part 4 of Division 3 of the Civil Code, Section 2328 of the Commercial Code, or Section 535 of the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(g) For purposes of this section, a "buyer's fee" is any amount that is in addition to the accepted auction bid price, taxes, vehicle registration fees, certificate of compliance or noncompliance fee, or any dealer document preparation charge, which is charged to a purchaser by an auctioning dealer.

SEC. 3. Section 11713.14 is added to the Vehicle Code, to read:

11713.14. (a) Notwithstanding any other provision of law, a person who purchases a vehicle that is sold through a dealer at an auction of vehicles open to the general public shall have the same rights and remedies against the dealer who conducts the auction sale as if that dealer were the owner and seller of the auctioned vehicle. The purchaser's rights and remedies are in addition to any right or remedy he or she may have against an owner of a vehicle sold at a public auto auction.

(b) If any claim or action is filed against a dealer pursuant to subdivision (a) and the vehicle that is the subject of the claim or action was owned by a person other than the dealer at the time of sale by auction, the owner of the vehicle that consigned it to the dealer

shall indemnify the dealer for any liability resulting from misrepresentations or other misconduct by the consignor.

(c) A purchaser's rights and remedies under this section may not be waived or modified by an agreement or by a recharacterization of the sales transaction.

SEC. 4. Section 11729 of the Vehicle Code is amended to read:

11729. (a) Except as provided in subdivision (b), any dealer engaging in a consignment with an owner not licensed as a dealer, manufacturer, manufacturer branch, distributor, or a distributor branch licensed under this code, and the consignment is not otherwise prohibited by this code, shall execute a consignment agreement as prescribed by Section 11730. The failure of a dealer, when required under this section, to complete and comply with the terms of the prescribed consignment agreement for any vehicle which the dealer agrees to accept on consignment, or to pay the agreed amount to the consignor or his or her designee within 20 days after the date of sale of the vehicle, is cause for suspending or revoking the license of the dealer under paragraph (10) of subdivision (a) of Section 11705.

(b) (1) A dealer conducting retail auction sales on behalf of a fleet owner shall execute a consignment agreement applicable to all vehicles consigned for sale during the term of the agreement which contains, at a minimum, substantially all of the terms, phrases, conditions, and disclosures required by Section 11730, except the following are not required:

(A) The description of a specific vehicle by year, make, identification number, license, state, or mileage.

(B) The information contained in paragraph (4) of subdivision (b) of Section 11730.

(2) If mutually agreeable, in lieu of the requirements of paragraph (7) of subdivision (b) of Section 11730, the consignor may provide the documents necessary to transfer the ownership of the vehicle to the consignee prior to the auction being held.

(3) For purposes of this subdivision, "fleet owner" is either of the following:

(A) A person who is the registered or legal owner of 25 or more vehicles registered in this state and is the owner, as recorded in the department's records, of the vehicles consigned for sale to the dealer.

(B) A bankruptcy trustee who owns or has legal control of the vehicles consigned for sale to the dealer, government agency, or financial institution.

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.

CHAPTER 673

An act to amend Sections 8547, 8547.2, 8547.3, 8547.8, 8547.10, and 8547.12 of, and to repeal and add Section 8547.1 of, the Government Code, relating to state employees.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8547 of the Government Code is amended to read:

8547. This article shall be known and may be cited as the "California Whistleblower Protection Act."

SEC. 2. Section 8547.1 of the Government Code is repealed.

SEC. 3. Section 8547.1 is added to the Government Code, to read:

8547.1. The Legislature finds and declares that state employees should be free to report waste, fraud, abuse of authority, violation of law, or threat to public health without fear of retribution. The Legislature further finds and declares that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.

SEC. 4. Section 8547.2 of the Government Code is amended to read:

8547.2. For the purposes of this article:

(a) "Employee" means any individual appointed by the Governor or employed or holding office in a state agency as defined by Section 11000, including, for purposes of Sections 8547.3 to 8547.7, inclusive, any employee of the California State University.

(b) "Improper governmental activity" means any activity by a state agency or by an employee that is undertaken in the performance of the employee's official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.10, and 8547.11, "improper governmental activity" includes any activity by the University of California or by an employee, including an officer or faculty member, who otherwise meets the criteria of this subdivision.

(c) "Person" means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) "Protected disclosure" means any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition.

(e) "Illegal order" means any directive to violate or assist in violating a federal, state, or local law, rule, or regulation or any order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

(f) "State agency" is defined by Section 11000. "State agency" includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive, and the California State University for purposes of Sections 8547.3 to 8547.7, inclusive.

SEC. 5. Section 8547.3 of the Government Code is amended to read:

8547.3. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the rights conferred pursuant to this article.

(b) For the purpose of subdivision (a), "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

(d) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law.

SEC. 6. Section 8547.8 of the Government Code is amended to read:

8547.8. (a) A state employee or applicant for state employment who files a written complaint with his or her supervisor, manager, or the appointing power alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 8547.3, may also file a copy of the written complaint with the State Personnel Board, together with a sworn statement that the contents of the written complaint are true, or are believed by the

affiant to be true, under penalty of perjury. The complaint filed with the board, shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having made a protected disclosure, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for a period not to exceed one year. Any state civil service employee who intentionally engages in that conduct shall be disciplined by adverse action as provided by Section 19572. If no adverse action is instituted by the appointing power, the State Personnel Board shall invoke adverse action as provided in Section 19583.5.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a state employee or applicant for state employment for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the State Personnel Board pursuant to subdivision (a), and the board has failed to reach a decision regarding any hearing conducted pursuant to Section 19683.

(d) This section is not intended to prevent an appointing power, manager, or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any state employee or applicant for state employment if the appointing power, manager, or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (b) of Section 8547.2.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, manager, or appointing power to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, manager, or appointing power fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a

contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of any employee under any other federal or state law or under any employment contract or collective bargaining agreement.

SEC. 7. Section 8547.10 of the Government Code is amended to read:

8547.10. (a) A University of California employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the regents, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having made a protected disclosure, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a University of California employee, including an officer or faculty member, or applicant for employment for having made a protected disclosure, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the regents.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is

justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of the evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, manager, or appointing power to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, manager, or appointing power fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of any employee under any other federal or state law or under any employment contract or collective bargaining agreement.

SEC. 8. Section 8547.12 of the Government Code is amended to read:

8547.12. (a) A California State University employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the trustees, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having made a protected disclosure, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a California State University employee, including an officer or faculty member, or applicant for employment for having made a protected disclosure, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages

may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the trustees. Nothing in this section is intended to prohibit the injured party from seeking a remedy if the university has not satisfactorily addressed the complaint within 18 months.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action, or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of the evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, manager, or appointing power to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, manager, or appointing power fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of any employee under any other federal or state law or under any employment contract or collective bargaining agreement.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action.

SEC. 9. Nothing in this act is intended to supersede or limit the application of the privilege of subdivision (b) of Section 47 of the Civil Code to informants and proceedings conducted pursuant to Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government Code, as confirmed in Braun v. Bureau of State Audits (1998) 67 Cal.App.4th 1382.

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.

CHAPTER 674

An act to amend Section 76104 of the Government Code, relating to emergency medical services.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 76104 of the Government Code is amended to read:

76104. (a) For purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, the board of supervisors of any county which established in the county treasury an Emergency Medical Services Fund prior to June 1, 1991, shall continue that fund using penalty revenues pursuant to Section 76000 as specified in the resolution or resolutions adopted by the board of supervisors prior to June 1, 1991, to create that fund. Except as provided in subdivision (d), the amount deposited in that fund shall be at and shall not exceed the corresponding amount for the 1990–91 fiscal year, plus a percentage representing the growth, if any, in the fines and forfeitures collected in comparison with the 1990–91 fiscal year, not to exceed 10 percent per fiscal year.

(b) For any county which established an Emergency Medical Services Fund prior to June 1, 1991, and for which that fund has not received deposits for 12 full months of collections of the penalty, the 1990–91 fiscal year shall be computed by projecting actual collection experience to produce an estimated annual amount.

(c) The board of supervisors of a county that has not established an Emergency Medical Services Fund prior to July 1, 1991, may set aside up to 28 percent of the total revenue from the penalty established pursuant to Section 76000 in the county treasury for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

(d) Notwithstanding any other provision of law, in complying with this section, a county shall not be required to contribute an amount in excess of the receipts of the penalty assessment authorized for this purpose.

(e) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Emergency Medical Services Fund shall be payable only for the purposes specified in Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

SEC. 2. This act shall become operative only if Senate Bill 623 is enacted and takes effect, in which case it shall become operative at the same time Senate Bill 623 becomes operative.

CHAPTER 675

An act to add Section 23701y to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 23701y is added to the Revenue and Taxation Code, to read:

23701y. A credit union as defined in Section 14002 of the Financial Code. In addition, those credit unions are exempt from all other taxes and licenses, state, county, and municipal, imposed upon those credit unions, except taxes upon their real property, local utility user taxes, sales and use taxes, state energy resources surcharges, state emergency telephone users surcharges, unrelated business income taxes pursuant to Section 23731, motor vehicle and other vehicle registration license fees, and any other tax or license fee imposed by the state upon vehicles, motor vehicles, or the operation thereof.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 676

An act to add Section 14666.6 to, and to add and repeal Section 14666.7 of, the Government Code, relating to state property.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 14666.6 is added to the Government Code, to read:

14666.6. (a) With the approval of the state agency concerned, the director shall negotiate in the name of the state, access to state-owned property, not used for highway purposes, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the best interest of the state. To the extent permitted under existing law, the director shall determine the amount of consideration for, and means of access, which means shall include, but not be limited to, any of the following: lease, permit, or other form of providing a monetary or service consideration for the access.

(b) The Director of Transportation shall negotiate in the name of the state, access to state-owned highway rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the Director of Transportation to be in the best interest of the state. To the extent permitted under existing law, the Director of Transportation shall determine the amount of consideration for, and means of access, which means shall include, but not be limited to, any of the following: lease, permit, or other form of providing a monetary or service consideration for the access.

(c) This section applies to various telecommunications and information technologies, including, but not limited to, voice data, video, and fiber-optic technologies.

(d) Any payments received under the provisions of this section for a grant or conveyance through land or facilities controlled by the Department of Transportation, including but not limited to rights-of-way along the state highway system, shall be deposited in the State Transportation Fund.

SEC. 2. Section 14666.7 is added to the Government Code to read:

14666.7. (a) The Legislature finds and declares all of the following:

(1) The state uses various telecommunications and information technologies, including, but not limited to, voice, data, video, and fiber-optic technologies in delivering public services that provide for the public safety and welfare of all Californians.

(2) There is a need to provide strong leadership, effective oversight, and management in order to ensure information access for the people of California.

(3) The state owns property, including, but not limited to, buildings, other structures, equipment, and rights-of-way. These resources should be utilized thoroughly and effectively in a manner that maintains public confidence and addresses economic, environmental, educational, and public safety issues.

(4) Information technology through telecommunications infrastructure development has been used successfully by other

states to strengthen regional economies through increased access to information and by facilitating the efficient delivery of government services. California, as a leader in new technologies, as well as the home of many of the world's leading colleges and universities, is uniquely positioned to capitalize on emerging technologies and economic opportunities.

(b) Accordingly, it is the intent of the Legislature in enacting this section to provide ongoing review of the plans and progress for managing state-owned property, and for enhancing the availability of existing and new information technologies and other technologies to people in this state in a nondiscriminatory and competitively neutral manner.

(c) The director shall establish not later than July 1, 2000, an interagency committee on state-owned property for the purposes of evaluating the use of that property for telecommunications and information technology services by private parties.

(d) The committee shall be chaired by the director and shall include all of the following, or their designees:

(1) The Director of Information Technology.

(2) The Director of the Health and Human Services Data Center.

(3) The Director of the Teale Data Center.

(4) The Director of Transportation.

(5) The Director of Water Resources.

(6) A representative from the University of California.

(7) A representative from the California State University.

(e) The committee shall convene a telecommunications and information technology advisory council for the purpose of obtaining input and insight from the private sector.

(f) Notwithstanding Section 7550.5, the committee shall prepare and submit a final report to the Legislature and the Governor on or before January 1, 2004, regarding its activities, its recommendations to various state agencies, an inventory of the companies that are granted access to state-owned property each year, and the purpose of that access.

(g) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 677

An act to amend Section 53114.1 of the Government Code, and to add Chapter 1.5 (commencing with Section 270) to Part 1 of Division 1 of, the Public Utilities Code, relating to service.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 53114.1 of the Government Code is amended to read:

53114.1. To accomplish the responsibilities specified in this article, the Communications Division is directed to consult at regular intervals with the State Fire Marshal, the State Department of Health Services, the Governor's Office of Traffic Safety, the Office of Emergency Services, the California Council on Criminal Justice, a local representative from a city, a local representative from a county, the public utilities in this state providing telephone service, the Associated Public Safety Communications Officers, the Emergency Medical Services Authority, the Department of the California Highway Patrol, and the Department of Forestry and Fire Protection. These agencies shall provide all necessary assistance and consultation to the Communications Division to enable it to perform its duties specified in this article.

SEC. 2. Chapter 1.5 (commencing with Section 270) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 1.5. ADVISORY BOARDS

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity.

(d) Notwithstanding Section 7550.5 of the Government Code, on or before July 1, 2000, the Public Utilities Commission, in consultation with the Department of Finance, shall report to the Governor and the Legislature regarding a transition plan for programs associated with funds to be established within the State Treasury, as specified in subdivision (a). The transition plan report shall include information regarding the annual revenue to be deposited in, and the annual estimated expenditure for, each fund specified in subdivision

(a). Advisory committees created by Sections 275, 276, 277, 278, 279, and 280 shall provide information and input to the commission in development of the specified transition plan.

271. For each advisory board created pursuant to this chapter all of the following are applicable:

(a) The commission shall establish the number of, and qualifications for, persons to serve as members of each board, and shall appoint the members of each board. In determining the qualifications of persons who will serve as members of each board, the commission shall consider the purpose of the program, and shall attempt to achieve balanced public participation, for each board. The membership of each board shall reflect, to the extent possible, and consistent with existing law, the ethnic and gender diversity of the state.

(b) Each board shall determine, subject to approval by the commission, the time, location, and number of monthly meetings for each board.

(c) A majority of the number of members of each board constitutes a quorum.

(d) A board cannot act at a meeting without the presence of a quorum.

(e) The affirmative vote of a majority of those members present at the meeting of a board is necessary in order to pass any motion, resolution, or measure.

(f) The commission shall determine for each board whether the board members shall receive expense reimbursement pursuant to Section 19820 of the Government Code and a per diem allowance, as specified in Section 11564.5 of the Government Code, or as established by the commission. Each member of a board who is not a commission or public utility employee, or who is not otherwise compensated by an employer for service on the board, shall be entitled to make a claim for and to receive a per diem allowance, if authorized by the commission. Each member of a board who is not a public utility employee, or who is not otherwise reimbursed by an employer for expenses incurred when serving on the board, shall be entitled to make a claim for and to receive expense reimbursement, if authorized by the commission. The commission shall allow all reasonable expense and per diem claims. The payments in each instance shall be made only from the fund that supports the activities of the board and shall be subject to the availability of money in that fund. The claims shall be filed by the board with the commission.

273. Each advisory board created pursuant to this chapter shall do both of the following:

(a) Submit an annual budget to the commission. Within 90 calendar days after receiving a board's annual budget, the commission shall either accept, accept with conditions, or reject the submitted budget.

(b) Notwithstanding Section 7550.5 of the Government Code, submit, in accordance with procedures established by the commission, a report that shall describe the activities of the board during the prior reporting period. The report shall be submitted on an annual or more frequent basis, as ordered by the commission.

274. The commission may on its own order, whenever it determines it to be necessary, conduct financial audits of the revenues required to be collected and submitted to the commission for each of the funds specified in Section 270. The commission may on its own order, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders with regard to each program subject to this chapter. The commission shall conduct a financial and compliance audit of program-related costs and activities at least once every three years. The first three-year period for a financial and compliance audit commences on January 1, 2000. The second and subsequent three-year periods for financial audits commence three years after the completion of the prior financial audit. The second and subsequent three-year periods for compliance audits commence three years after the completion of the prior compliance audit. The commission may contract with the Bureau of State Audits or the Department of Finance for all necessary auditing services. All costs for audits shall be paid from the fund that supports the activities of the board audited and shall be subject to the availability of money in that fund.

275. (a) There is hereby created the California High-Cost Fund-A Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to small independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-A Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-A Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission

associated with the administration and oversight of the program and the fund.

276. (a) There is hereby created the California High-Cost Fund-B Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to provide for transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as provided for in Section 739.3, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California High-Cost Fund-B Administrative Committee Fund.

(c) Moneys appropriated from the California High-Cost Fund-B Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

277. (a) There is hereby created the Universal Lifeline Telephone Service Trust Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to ensure lifeline telephone service is available to the people of the state, as provided for in Article 8 (commencing with Section 871) of Chapter 4 of Part 1 of Division 1, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Universal Lifeline Telephone Service Trust Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(c) Moneys appropriated from the Universal Lifeline Telephone Service Trust Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

278. (a) (1) There is hereby created the Deaf and Disabled Telecommunications Program Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in Sections 2881, 2881.1, and 2881.2, and to carry out the programs pursuant to the commission's direction, control, and approval.

(2) In addition to the membership qualifications established by the commission pursuant to subdivision (a) of Section 271, the commission shall establish qualifications for persons to serve as members of the Deaf and Disabled Telecommunications Program Administrative Committee to achieve appropriate representation by the consumers of telecommunications services for the deaf and disabled.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. In addition, those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

(c) Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

279. (a) There is hereby created the Payphone Service Providers Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to educate payphone service providers, ensure compliance with the commission's requirements for

payphone operations, and educate consumers on matters related to payphones, as provided for in commission Decision 90-06-018, and to provide for the placement of telecommunications devices capable of servicing the needs of the deaf or the hearing impaired in existing buildings and public accommodations, as specified in subdivision (a) of Section 2881.2.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Payphone Service Providers Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Payphone Service Providers Committee Fund.

(c) Moneys appropriated from the Payphone Service Providers Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

280. (a) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund.

(c) Moneys appropriated from the California Teleconnect Fund Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

281. Any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter.

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.

CHAPTER 678

An act to add Section 60812 to, and to add Article 3.5 (commencing with Section 313) to Chapter 3 of Part 1 of, the Education Code, relating to English language education.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 3.5 (commencing with Section 313) is added to Chapter 3 of Part 1 of the Education Code, to read:

Article 3.5. English Language Proficiency Assessment

313. (a) Each school district that has one or more pupils who are English learners shall assess each pupil's English language development in order to determine the level of proficiency for the purposes of this chapter.

(b) The State Department of Education, with the approval of the State Board of Education, shall establish procedures for conducting the assessment required pursuant to subdivision (a) and for the reclassification of a pupil from English learner to proficient in English.

(c) Commencing with the 2000–01 school year, the assessment shall be conducted upon initial enrollment, and annually, thereafter, on the anniversary of the pupil's initial identification by the school district as being an English learner. The annual assessments shall continue until the pupil is redesignated as English proficient. The assessment shall primarily utilize the English language development test identified or developed by the Superintendent of Public Instruction pursuant to Chapter 7 (commencing with Section 60810) of Part 33. Prior to completion of the English language development test, a school district shall use either an assessment instrument

developed by the school district or an assessment recommended by the State Department of Education.

(d) The reclassification procedures developed by the State Department of Education shall utilize multiple criteria in determining whether to reclassify a pupil as proficient in English, including, but not limited to, all of the following:

(1) Assessment of language proficiency using an objective assessment instrument, including but not limited to, the English language development test pursuant to Section 60810.

(2) Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.

(3) Parental opinion and consultation.

(4) Comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.

SEC. 2. Section 60812 is added to the Education Code, to read:

60812. Commencing the school year following the year in which the Superintendent of Public Instruction has developed or identified a test pursuant to this chapter, the State Department of Education shall place the results of the statewide test, including average scores for every school district on its Internet site for public access.

SEC. 3. The Legislature finds and declares that this act provides an assessment mechanism that is supplementary to, rather than amendatory of, the English Language In Public Schools Initiative Statute (Proposition 227, approved by the voters at the June 2, 1998, primary election).

SEC. 4. It is the intent of the Legislature that the assessment and reclassification conducted pursuant to this act be consistent with federal law, and not impose requirements on local educational agencies that exceed requirements already set forth in federal law.

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.

CHAPTER 679

An act to amend Section 1797.98b of the Health and Safety Code, and to amend Section 42007 of the Vehicle Code, relating to emergency medical services.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1797.98b of the Health and Safety Code is amended to read:

1797.98b. (a) Each county establishing a fund, on January 1, 1989, and on each January 1 thereafter, shall report to the Legislature on the implementation and status of the Emergency Medical Services Fund. The report shall include, but not be limited to, all of the following:

(1) The total amount of fines and forfeitures collected, the total amount of penalty assessments collected, and the total amount of penalty assessments deposited into the Emergency Medical Services Fund.

(2) The fund balance and the amount of moneys disbursed under the program to physicians and for other emergency medical services purposes.

(3) The pattern and distribution of claims and the percentage of claims paid to those submitted.

(4) The amount of moneys available to be disbursed to physicians, the dollar amount of the total allowable claims submitted, and the percentage at which such claims were reimbursed.

(5) A statement of the policies, procedures, and regulatory action taken to implement and run the program under this chapter.

(b) (1) Each county, upon request, shall make available to any member of the public the report required under subdivision (a).

(2) Each county, upon request, shall make available to any member of the public a listing of physicians and hospitals that have received reimbursement from the Emergency Medical Services Fund and the amount of the reimbursement they have received. This listing shall be compiled on a semiannual basis.

SEC. 2. 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) 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 and, as may be applicable, distributed as follows:

(1) 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) In any county that has established a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code, an amount equal to the sum of each two dollars ($2) for every seven dollars ($7) that would have been collected pursuant to Section 76000 of the Government Code shall be deposited in that fund. Nothing in the act that added this paragraph shall be interpreted in a manner that would result in either of the following:

(A) The utilization of penalty assessment funds that had been set aside, on or before January 1, 2000, to finance debt service on a capital facility that existed before January 1, 2000.

(B) The reduction of the availability of penalty assessment revenues that had been pledged, on or before January 1, 2000, as a means of financing a facility which was approved by a county board of supervisors, but on January 1, 2000, is not under construction.

(c) 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.

(d) 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.

(e) 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.

(f) 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. 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.

CHAPTER 680

An act to amend Section 2550 of, to amend and repeal Section 2551 of, and to add Section 2567 to, the Education Code, relating to education finance.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(1) County offices of education provide critical services to school districts, including education technology programs, reading initiative programs, school safety, staff development, and district accounting and administrative programs.

(2) The Governor's 1999 Special Session on Education produced four important major education reforms benefiting California's pupils and teachers, which will require assistance from county offices of education for their effective implementation.

(3) All school districts should receive appropriate financial and administrative support from county offices of education in the implementation of these fiscal and academic accountability reform initiatives.

(4) Every school district, regardless of size or location, should receive an appropriate and equitable level of services from its county office of education.

(5) As a result of past inequities in funding for county offices of education, the general purpose revenues of individual county offices of education vary as much as 300 percent within similar size counties, thereby limiting the ability of the lowest funded counties to provide services to their respective districts.

(6) School districts have received almost six hundred million dollars ($600,000,000) in equalization funding in recent years, while county offices have not received any equalization funding.

(b) It is the intent of the Legislature by amending Sections 2550 and 2551 of, and adding Section 2567 to, the Education Code in the act adding this section, to assist those counties that are below the statewide average in general purpose funding, so that all school districts receive appropriate assistance from their county offices of education in the implementation of the Governor's 1999 reform measures, including school accountability, the high school exit examination, peer assistance and review, reading development and early intervention, schoolsite safety, academic assistance, and fiscal accountability and oversight measures established pursuant to Chapter 1213 of the Statutes of 1991 and Chapter 650 of the Statutes of 1994.

SEC. 2. Section 2550 of the Education Code is amended to read:

2550. For each fiscal year, the Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for direct services and other purposes provided by county superintendents of schools:

(a) For programs operated pursuant to subdivision (a) of Section 14054, the Superintendent of Public Instruction shall:

(1) Determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year. The Superintendent of Public Instruction shall increase each amount by a percentage equal to the inflation allowance calculated for the current fiscal year pursuant to Section 2557.

(2) Multiply each amount determined in paragraph (1) by the actual number of units of average daily attendance in the prior fiscal year for programs maintained by each county superintendent. For purposes of this paragraph, the number of units of average daily attendance shall include only units generated by elementary districts with less than 901 units of average daily attendance, high school districts with less than 301 units of average daily attendance, and unified school districts with less than 1,501 units of average daily attendance within each county superintendent's jurisdiction.

(b) For programs operated pursuant to subdivision (b) of Section 14054, the Superintendent of Public Instruction shall:

(1) (A) For the 1999–2000 fiscal year, determine the rate per unit of average daily attendance calculated for each county office of education pursuant to subdivision (b) of Section 2567 and increase each rate by a percentage equal to the inflation allowance calculated in Section 2557.

(B) For the 2000–01 fiscal year and each fiscal year thereafter, determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year. The Superintendent of Public Instruction shall increase each amount by

a percentage equal to the inflation allowance calculated for the current fiscal year pursuant to Section 2557.

(2) Multiply each amount determined in paragraph (1) by the units of average daily attendance in the current fiscal year for programs for kindergarten and grades 1 to 12, inclusive, maintained by each county superintendent. For the purposes of this paragraph, average daily attendance shall include only the total units of average daily attendance credited to all elementary, high school, and unified school districts within each county superintendent's jurisdiction and to the county superintendent.

SEC. 3. Section 2551 of the Education Code is amended to read:

2551. The Superintendent of Public Instruction shall perform the computations prescribed in this section to determine each county superintendent's revenue limit for county superintendent responsibilities and district services:

(a) For the 1981–82 fiscal year, the superintendent shall add to the revenue limit amount computed pursuant to subdivision (a) of Section 2551 for the 1980–81 fiscal year, the revenue limit amount computed pursuant to Section 2552 for the 1980–81 fiscal year reduced by 55.9 percent. This adjusted revenue limit shall then be increased by the inflation allowance calculated in subdivision (a) of Section 2557.

(b) For the 1981–82 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall increase the amount calculated in subdivision (a) by the amounts computed according to Sections 2507.5 and 2510.

(c) The total amounts for each program calculated pursuant to subdivision (a) may be used for any of the services or programs specified in this section, or Section 2552 as it read prior to the enactment of this act.

(d) 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. 4. Section 2567 is added to the Education Code, to read:

2567. (a) To compute, pursuant to subdivision (b), a rate per unit of average daily attendance for county offices of education for the 1999–2000 fiscal year, the Superintendent of Public Instruction shall use the amounts listed below, which amounts shall be used for the purposes of school accountability, pursuant to Chapter 3 of the Statutes of the 1999–2000 First Extraordinary Session; the high school exit examination, pursuant to Chapter 1 of the Statutes of the 1999–2000 First Extraordinary Session; peer assistance and review, pursuant to Chapter 4 of the Statutes of the 1999–2000 First Extraordinary Session; reading development and early intervention, pursuant to Chapter 2 of the Statutes of the 1999–2000 First Extraordinary Session; schoolsite safety, pursuant to Chapter 51 of the Statutes of 1999; education technology, pursuant to Chapter 650 of

the Statutes of 1994; and fiscal accountability and oversight, pursuant to Chapter 1213 of the Statutes of 1991 and Chapter 650 of the Statutes of 1994:

Alameda	$163,978
Butte	$30,655
Calaveras	28,351
Colusa	27,915
Contra Costa	408,814
El Dorado	33,672
Fresno	631,164
Glenn	9,823
Humboldt	36,030
Imperial	153,282
Kern	33,367
Kings	76,689
Lassen	13,869
Los Angeles	1,701,296
Madera	71,248
Merced	75,750
Nevada	39,754
Orange	408,142
Placer	693
Sacramento	573,462
San Benito	32,298
San Bernardino	586,611
San Joaquin	329,422
Shasta	53,678
Solano	271,764
Stanislaus	316,300
Sutter	76,383
Tehama	33,828
Trinity	4,370
Tulare	402,307
Tuolumne	23,559
Ventura	85,842
Yolo	36,230
Yuba	34,624
	$6,805,170

(b) For purposes of subparagraph (A) of paragraph (1) of subdivision (b) of Section 2550, the Superintendent of Public Instruction shall compute a rate per unit of average daily attendance for each county office of education as follows:

(1) For each county office of education, the sum of the following amounts:

(A) The amount, if any, listed for the county office of education in subdivision (a).

(B) The amounts received by the county office of education in the 1998–99 fiscal year for the apportionments set forth in paragraph (1) of subdivision (c) of Section 2561.

(2) Divide the amount computed pursuant to paragraph (1) by the 1998–99 countywide average daily attendance.

CHAPTER 681

An act to add Section 54988 to the Government Code, relating to local fees and charges.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 54988 is added to the Government Code, to read:

54988. (a) (1) In addition to any other remedy provided by law, including the current powers of charter cities, the legislative body of a city, county, or city and county may collect any fee, cost, or charge incurred in (A) the abatement of public nuisances; (B) the correction of any violation of any law or regulation that would also be a violation of Section 1941.1 of the Civil Code; (C) the enforcement of zoning ordinances adopted pursuant to Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 or any other constitutional or statutory authority; (D) inspections and abatement of violations of Article 1 (commencing with Section 13100) of Chapter 2 of Part 2 of Division 12 of the Health and Safety Code; (E) inspections and abatement of violations of the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and regulations adopted pursuant thereto; (F) inspections and abatement of violations of the California Building Standards Code, Title 24 of the California Code of Regulations; or (G) inspections and abatement related to local ordinances and regulations that implement any of the foregoing, if the fee, cost, or charge has not been paid within 45 days of notice thereof, by making the amount of the unpaid fee, cost, or charge a proposed lien against the property that is the subject of the

enforcement activity. Except as provided in subdivision (c), the amount of the proposed lien may be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

(2) The amount of any fee, cost, or charge shall not exceed the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

(3) This section shall not apply to owner-occupied residential dwelling units.

(4) This section does not apply to any enforcement, abatement, correction, or inspection activity regarding a violation in which the violation was evident on the plans that received a building permit.

(b) (1) A city, county, or city and county shall provide the owner of the property with written notice in plain language of the proposed lien, a description of the basis for the amounts comprising the lien, a minimum of 45 days after notice to pay the fee, cost, or charge, and an opportunity to appear before the legislative body and be heard regarding the amount of the proposed lien.

(2) In any city, county, or city and county, the legislative body may delegate the holding of the hearing required by paragraph (1) to a hearing board designated by the legislative body. The hearing board may be the housing appeals board established pursuant to Section 17920.5 of the Health and Safety Code or any other body designated by the legislative body. The hearing board shall make a written recommendation to the legislative body which shall include factual findings based on evidence introduced at the hearing. The legislative body may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the legislative body. Notice in writing of the de novo hearing shall be provided to the property owner at least 10 days in advance of the scheduled hearing.

(c) If the legislative body determines that the proposed lien authorized pursuant to subdivision (a) shall become a lien, the body may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the county recorder of the county in which the property is situated and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set

forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

CHAPTER 682

An act to add and repeal Article 11 (commencing with Section 61581) to Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 11 (commencing with Section 61581) is added to Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code, to read:

Article 11. Consumer Milk Pricing Survey

61581. (a) There is established within the department, the Consumer Milk Price Survey (CMPS), a public information program.

(b) For purposes of this article, the Division of Marketing Services, within the department, shall make available on the department's web site and by means of a toll-free telephone number, the price of milk, as follows:

(1) There shall be a reporting of the retail price of one gallon of each brand sold by the grocer of the following milk standards of identity: whole milk; reduced fat (2 percent); lowfat (1 percent); and nonfat (skim). If a grocer sells milk in half gallons and not gallons, the division shall clarify in its report that the price listed is that of a half gallon.

(2) The report specified in paragraph (1) shall include the retail prices of each brand of milk sold at the following locations:

(A) Major grocery stores operated by a grocer operating 10 or more grocery stores having at least one location with more than 1,500 square feet of floor space.

(B) Medium-sized grocery stores operated by a grocer operating less than 10 grocery stores or operating 10 or more grocery stores, but having no location with more than 1,500 square feet of floor space.

(C) Small grocery stores with less than 1,500 square feet of floor space.

(D) Membership wholesale-retail establishments that sell milk to consumers who pay periodic membership fees.

(c) At least five store locations in each category and each region listed in subdivision (d) shall be selected monthly for a scientifically

valid, random sample to provide data for the report. The report shall list the store name, an adequate description of the store's location, all brands of milk sold in half-gallon and gallon increments, milk standards of identity offered for sale, the price, and the date of the price.

(d) To determine the price of milk, the division shall conduct market surveys of the following regions:

(1) Rural northern California:

Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties.

(2) The greater San Francisco Bay area:

Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

(3) Central California:

Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, Sacramento, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Yolo Counties.

(4) Los Angeles and vicinity:

Los Angeles, Orange, and Ventura Counties.

(5) Other southern California markets:

Imperial, Riverside, San Bernardino, and San Diego Counties.

(e) The survey shall be completed monthly over a five-day period. The results of each survey shall not be disclosed prior to its completion. Employees of the division shall identify themselves when asking a store for price information. Each survey shall be conducted so that the information is posted by the division not more than five business days after completion.

61582. The division shall make web site posting available to grocers who were not included in the survey. If any grocer expresses a desire to have its milk prices posted on the web site, that grocer shall provide the store name, an adequate description of the store's location, brands of milk sold, milk standards of identity offered for sale in one-gallon increments, the price, and the period of time when the price applies. The division shall post this information within five working days of receiving the information. This posting by the division shall include a disclaimer from the division that the prices have not been verified and that consumers may report discrepancies to the division.

61583. (a) The division shall design a notice promoting the use of the Consumer Milk Price Survey Program's web site and the toll-free telephone number. Grocers shall clearly and conspicuously post that notice or its contents in proximity to the dairy case at locations wherever consumers buy milk in half-gallon increments or greater.

(b) If the division learns of a grocer that is not posting the notice required by subdivision (a), the division shall alert the grocer of this deficiency and ask the grocer to post the notice.

(c) Notwithstanding any other provision of law, including, but not limited to, Section 9 and Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, no sanctions shall be imposed for failure to post in accordance with this section.

61584. The division shall develop a means for consumers to provide the division with comments on milk prices by way of its web page, toll-free telephone number system, and other means.

61585. This article does not replace the requirement for periodic announcements of changes in the dairy prices of milk as produced by the department.

61586. For purposes of this article, "division" means the Division of Marketing Services within the department.

61587. (a) This article 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.

(b) Notwithstanding Section 7550.5 of the Government Code, the division shall prepare and submit a report to the Legislature on or before June 30, 2001, concerning the effect of this article on retail milk prices and on consumer awareness of retail milk prices.

SEC. 2. Notwithstanding Section 7550.5 of the Government Code, on or before March 30, 2001, the Department of Food and Agriculture shall report to the Legislature on the results of the Consumer Milk Pricing Survey, (Article 11 (commencing with Section 61581), Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code) as added by Section 1 of this act, including comments on the survey from consumers and those associated with the production and sale of milk.

CHAPTER 683

An act to add Section 846.2 to the Public Utilities Code, relating to public utilities.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 846.2 is added to the Public Utilities Code, to read:

846.2. (a) Notwithstanding subdivision (c) of Section 841, for any electrical corporation that ended its rate freeze period described in subdivision (a) of Section 368 prior to July 15, 1999, the commission

may order a fair and reasonable credit to ratepayers of any excess rate reduction bond proceeds.

(b) "Excess rate reduction bond proceeds," as used in this section, means proceeds from the sale of rate reduction bonds authorized by commission financing orders issued pursuant to this article that are subsequently determined by the commission to be in excess of the amounts necessary to provide the 10-percent rate reduction during the period when the rates were frozen pursuant to subdivision (a) of Section 368.

CHAPTER 684

An act to add Section 20903 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 20903 is added to the Government Code, 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, or any additional period or periods designated in any subsequently adopted resolution of the governing body of the contracting agency, 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 1 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 workforce of the department or organizational unit.

(e) The amount of additional service credit shall be two years regardless of credited service.

(f) 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.

(g) This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments during the specified period.

(h) Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

(i) 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.

(j) 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 January 1, 2000, by express provision in the contract making the contracting agency subject to the provisions of this section.

Before adopting this provision, the governing body of a contracting agency shall, with timely public notice, place the consideration of this section on the agenda of a public meeting of the governing body, at which time disclosure shall be made of the additional employer contributions, and the funding therefor, and members of the public shall be given the opportunity to be heard. The matter shall not be placed on the agenda as a consent item. Only after the public meeting may the governing body adopt this section. The governing body shall also comply with the requirements of Section 7507. The employer shall notify the board of the employer's compliance with this subdivision at the time of the governing body's application to adopt this section.

(k) The contracts of contracting agencies that adopted the provisions of former Section 20903, prior to the repeal of that section on January 1, 1999, shall remain in full force and effect in accordance with their terms and the terms of this section. Notwithstanding subdivision (j), those contracting agencies need not amend their contracts or otherwise comply with the requirements of subdivision

(j) to be subject to this section. Without limiting the foregoing, eligibility periods under subdivision (a) of former Section 20903, designated by the governing body of a contracting agency by resolution pursuant to the terms of its contract or contract amendment, shall remain in effect in accordance with their terms as if designated pursuant to this section.

(*l*) 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.

CHAPTER 685

An act to amend Section 44253.10 of the Education Code, relating to teacher credentialing.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44253.10 of the Education Code is amended to read:

44253.10. (a) A teacher with a basic teaching credential may be assigned to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2, to limited-English-proficient pupils only if the following conditions are met:

(1) The teacher, as of January 1, 1999, is a permanent employee of a school district, a county office of education, or a school administered under the authority of the Superintendent of Public Instruction, or was previously a permanent employee and then was employed in any California public school district within 39 months of the previous permanent status, or has been employed in a school district with an average daily attendance of not more than 250 for at least two years.

(2) The teacher completes 45 clock hours of staff development in methods of specially designed content instruction delivered in English prior to January 1, 2005. The extension of the date by which a teacher is required to complete this staff development may not be construed as authorizing teachers to teach limited-English-proficient pupils without a certificate issued pursuant to this section or Sections 44253.3 and 44253.4.

(b) The commission, in consultation with the Superintendent of Public Instruction, shall establish guidelines for the provision of staff development pursuant to this section. The commission and the superintendent shall use their best efforts to establish these guidelines as soon as possible, but in no event later than January 1,

1996. Staff development pursuant to this section shall be consistent with the commission's guidelines.

(1) To ensure the highest standards of program quality and effectiveness, the guidelines shall include quality standards for the persons who train others to perform staff development training and for those who provide the training. The guidelines may require that teachers who qualify to provide instruction pursuant to paragraph (1) of subdivision (d) include a portion, within the total 45 clock hours of training provided in paragraph (2) of subdivision (a), in English language development.

(2) The guidelines for training to meet the requirements of paragraph (1) of subdivision (d) may provide for 20 hours, or fewer hours as the commission may specify, of training in any aspect of English language development or specially designed content instruction delivered in English.

(3) The guidelines shall require that the staff development offered pursuant to this section be aligned to the teacher preparation leading to the issuance of a certificate pursuant to Section 44253.3 and any amendments made to that section. This alignment, however, may not result in any increase in the number of hours of staff development necessary to meet the requirements of this section.

(4) The guidelines and standards established by the commission to implement this section shall require and maintain compliance with any requirements mandated by federal law for purposes of assuring continued federal financial assistance.

(5) The commission shall review staff development programs in relation to the guidelines and standards established pursuant to this section. The review shall include all programs offered pursuant to this section except programs previously approved pursuant to subdivision (c). If the commission finds that a program meets the applicable guidelines and standards, the commission shall forward a report of its findings to the chief executive officer of the sponsoring school district, county office of education, or regionally accredited college or university. If the commission finds that a program does not meet the applicable guidelines or standards, or both, the report of the commission shall specify the areas of noncompliance and the time period in which a second review shall occur. If a second review of a program by the commission reveals a pattern of continued noncompliance with the applicable guidelines or standards, or both, the sponsoring agency shall not offer the program to teachers who have not already enrolled in it. The effective date for California Commission on Teacher Credentialing approval of staff development programs not currently approved as of January 1, 2000, shall be on or before January 1, 2002, except for persons already enrolled in programs by January 1, 2002.

(6) By December 31, 2000, the commission shall report to the Legislature on the status of the 45-hour and the 90-hour alternative programs, including the strengths and weaknesses of the process and

programs. In preparing the report, the commission shall include a summary of its review pursuant to paragraph (5) of the staff development programs.

(c) The staff development may be sponsored by any school district, county office of education, or regionally accredited college or university that meets the standards included in the guidelines established pursuant to this subdivision or any organization that meets those standards and is approved by the commission. Any equivalent three semester unit or four quarter unit class may be taken by the teacher at a regionally accredited college or university to satisfy the staff development requirement described in either subdivision (a) or (d), or both. Once the commission has made a determination that a college or university class is equivalent, no further review of the class shall be required pursuant to paragraph (5) of subdivision (b), regardless of the date of the initial review.

(d) (1) A teacher who completes the staff development described in subdivision (a) shall be awarded a certificate of completion of staff development in methods of specially designed content instruction delivered in English .

(2) A teacher who completes the staff development described in subdivision (a) may provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2, and English language development, as defined in subdivision (a) of Section 44253.2, in any departmentalized teaching assignment consistent with the authorization of the teacher's basic credential. This authorization also applies to teachers who completed the required staff development before the effective date of the amendments made to this section by the act adding this authorization.

(3) A teacher who completes the staff development described in subdivision (a) may not be assigned to provide content instruction in the pupil's primary language, as defined in subdivision (c) of Section 44253.2.

(4) A teacher who completes the staff development described in subdivision (a) may be assigned to provide instruction for English language development, as defined in subdivision (a) of Section 44253.2, in a self-contained classroom under either of the following circumstances:

(A) The teacher has taught for at least nine years in California public schools, certifies that he or she has had experience or training in teaching limited-English-proficient pupils, and authorizes verification by the entity that issues the certificate of completion. The teacher shall be awarded a certificate of completion in methods of instruction for English language development in a self-contained classroom.

(B) The teacher has taught for less than nine years in California public schools, or has taught for at least nine years in California public schools but is unable to certify that he or she has had experience or

training in teaching limited-English-proficient pupils, but has, within three years of completing the staff development described in subdivision (a), completed an additional 45 hours of staff development, including specially designed content instruction delivered in English and English language development training, as set forth in the guidelines developed pursuant to subdivision (b). Upon completion of this additional staff development, the teacher shall be awarded a certificate of completion in methods of instruction for English language development in a self-contained classroom.

(e) During the period in which a teacher is pursuing the training specified in paragraph (2) of subdivision (a) or subdivision (d), or both, including the period for the assessment and awarding of the certificate, the teacher may be provisionally assigned to provide instruction for English language development, as defined in subdivision (a) of Section 44253.2, or to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2.

(f) (1) A teacher who completes the staff development with any provider specified in subdivision (c), and who meets the requirements of subdivision (a) or (d) for a certificate of completion of staff development in methods of specially designed content instruction delivered in English or English language development in a self-contained classroom, or both, shall be issued the certificate or certificates.

(2) A teacher who completes a staff development program in methods of specially designed content instruction delivered in English or English language development in a self-contained classroom, or both, who has been determined by the commission to meet the applicable guidelines and standards, pursuant to paragraph (5) of subdivision (b), shall receive a certificate or certificates of completion from the commission upon submitting an application, a staff development verification form to be furnished by the commission, and payment of a fee to be set by the commission, not to exceed forty-five dollars ($45).

(3) A person who is enrolled in, or who has completed a staff development program not approved by the commission prior to January 1, 2002, may, until the date of January 1, 2003, apply to any of the following agencies for the certificate or certificates, but the teacher shall be issued the certificate or certificates by only one of these agencies:

(A) The school district in which the teacher is a permanent employee.

(B) The county office of education in the county in which the teacher is an employee for an agency specified in paragraph (1) of subdivision (a).

(C) Any school district or county office of education that provides staff development pursuant to subdivision (c). Before issuing a certificate or certificates based on an equivalent class or classes, as

provided for in subdivision (c), the issuing agency shall determine if the class or classes meet the guidelines established pursuant to subdivision (b).

(4) Any school district or county office of education that issues a certificate of completion shall forward a copy of the certificate to the Commission on Teacher Credentialing within 90 days of issuing the certificate.

(5) An agency that issues a certificate or certificates of completion may charge the teacher requesting the certificate or certificates of completion a fee that will cover the actual costs of the agency in issuing, forwarding a copy to the commission, and paying any fee charged by the commission for receiving and servicing, the certificate or certificates of completion.

The commission may charge the agency that forwards a copy of a certificate or certificates of completion a one-time fee to cover the actual costs to the commission to file the copy or copies, and to issue duplicates when requested by the teacher. The fee shall not exceed an amount equal to one-half the fee the commission charges for issuing a credential.

(g) The certificate of completion is valid in all California public schools. A teacher who has been issued a certificate of completion may be assigned indefinitely to provide the instructional services named on the certificate in any school district, county office of education, or school administered under the authority of the Superintendent of Public Instruction.

(h) Teacher assignments made in accordance with subdivision (a) of this section shall be included in the reports required by subdivisions (a) and (e) of Section 44258.9.

(i) The governing board of each school district shall make reasonable efforts to provide limited-English-proficient pupils in need of English language development instruction with teachers who hold appropriate credentials, language development specialist certificates, or crosscultural language and academic development certificates that authorize English language development instruction. However, any teacher awarded a certificate or certificates of completion shall be deemed certificated and competent to provide the services listed on that certificate of completion. A teacher who completes staff development pursuant to this section may use those hours of staff development to meet the requirements of subdivision (b) of Section 44277.

(j) Any teacher completing staff development pursuant to this section shall be credited with three semester units or four quarter units for each block of 45 hours of staff development completed for the purpose of meeting the requirements set forth in subdivision (b) of Section 44253.3.

(k) Any school district may use funds allocated to it for the purposes of Chapter 3.1 (commencing with Section 44670) to provide staff development pursuant to this section.

CHAPTER 686

An act to amend Sections 13269 and 13350 of the Water Code, relating to water.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The State Water Resources Control Board, as directed in the Supplemental Report of the 1999 Budget Act, is to provide the Legislature with reports on a baseline needs analysis for the core regulatory program of the board.

(b) The board is to take into consideration the overall cost of the program, the time and effort required to review and approve individual waste discharge reports, and other factors necessary to properly determine the adequacy of fees assessed pursuant to Section 13260 of the Water Code.

(c) The board is to provide a preliminary report to the Legislature by April 1, 2000, and a final report by January 1, 2001.

(d) It is the intent of the Legislature that the final report includes a review of the fees currently collected and expended under Section 13260 of the Water Code.

SEC. 2. Section 13269 of the Water Code is amended to read:

13269. (a) On and after January 1, 2000, the provisions of subdivisions (a) and (b) of Section 13260, subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by a regional board as to a specific discharge or a specific type of discharge if the waiver is not against the public interest. Waivers for specific types of discharges may not exceed five years in duration, but may be renewed by a regional board. The waiver shall be conditional and may be terminated at any time by the board.

(b) A waiver in effect on January 1, 2000, shall remain valid until January 1, 2003, unless the regional board terminates that waiver prior to that date. All waivers that were valid on January 1, 2000, and granted an extension until January 1, 2003, and not otherwise terminated, may be renewed by a regional board in five-year increments.

(c) Upon notification of the appropriate regional board of the discharge or proposed discharge, except as provided in subdivision

(d), the provisions of subdivisions (a) and (b) of Section 13260, subdivision (a) of Section 13263, and subdivision (a) of Section 13264 shall not apply to discharge resulting from any of the following emergency activities:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the regional boards shall review the terms of the waiver policy at a public hearing. At the hearing, a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

SEC. 3. Section 13350 of the Water Code is amended to read:

13350. (a) Any person who (1) intentionally or negligently violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, intentionally or negligently discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, and creates a condition of pollution or nuisance, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other provisions of this

division, shall be liable civilly in accordance with subdivision (d), (e), or (f).

(b) (1) Any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any of the waters of the state where it creates a condition of pollution or nuisance, except in accordance with waste discharge requirements or other provisions of this division, shall be strictly liable civilly in accordance with subdivision (d), (e), or (f).

(2) For purposes of this subdivision, the term "discharge" includes only those discharges for which Section 13260 directs that a report of waste discharge shall be filed with the regional board.

(3) For purposes of this subdivision, the term "discharge" does not include any emission excluded from the applicability of Section 311 of the Clean Water Act (33 U.S.C. Sec. 1321) pursuant to Environmental Protection Agency regulations interpreting Section 311(a)(2) of the Clean Water Act (33 U.S.C. Sec. 1321(a)(2)).

(c) There shall be no liability under subdivision (b) if the discharge is caused solely by any one or combination of the following:

(1) An act of war.

(2) An unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(3) Negligence on the part of the state, the United States, or any department or agency thereof; provided, that this paragraph shall not be interpreted to provide the state, the United States, or any department or agency thereof a defense to liability for any discharge caused by its own negligence.

(4) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(5) Any other circumstance or event which causes the discharge despite the exercise of every reasonable precaution to prevent or mitigate the discharge.

(d) When there is a discharge, and a cleanup and abatement order is issued pursuant to Section 13304, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board pursuant to Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed five thousand dollars ($5,000), but shall not be less than five hundred dollars ($500), for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed fifteen thousand dollars ($15,000) for each day in which the

discharge occurs and for each day the cleanup and abatement order is violated.

(e) When there is a discharge, and a cleanup and abatement order is not issued pursuant to Section 13304, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed ten dollars ($10) for each gallon of waste discharged.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed twenty dollars ($20) for each gallon of waste discharged.

(f) When there is no discharge, but an order issued by the regional board is violated, liability shall be imposed as follows:

(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed one thousand dollars ($1,000), but shall not be less than one hundred dollars ($100), for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with this article and Article 6 (commencing with Section 13360) for a violation of this section in an amount which shall not exceed ten thousand dollars ($10,000) for each day in which the violation occurs.

(g) A regional board shall not administratively impose civil liability in accordance with subdivision (d), (e), or (f) in an amount less than the minimum amount specified, unless the regional board makes express findings setting forth the reasons for its action based on the specific factors required to be considered pursuant to Section 13327.

(h) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose, assess, and recover such sums. Except in the case of a violation of a cease and desist order, a regional board or the state board shall make such request only after a hearing, with due notice of the hearing given to all affected persons. In determining such amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, taken by the discharger.

(i) The provisions of Article 3 (commencing with Section 13330) and Article 6 (commencing with Section 13360) of this chapter shall apply to proceedings to impose, assess, and recover an amount pursuant to this article.

(j) Any person who incurs any liability established under this section shall be entitled to contribution for such liability from any

third party, in an action in the superior court and upon proof that the discharge was caused in whole or in part by an act or omission of the third party, to the extent that the discharge is caused by the act or omission of the third party, in accordance with the principles of comparative fault.

(k) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal; provided that no liability shall be recoverable under subdivision (b) for any discharge for which liability is recovered under Section 13385.

(*l*) The state board shall submit an annual report to the Legislature which shall be available to the public, list all instances in which civil liability has been administratively imposed by a regional board in accordance with subdivision (d), (e), or (f) during the preceding year, and set forth the express findings made by the regional board pursuant to subdivision (g), and indicate the maximum amount of liability which could have been imposed and the amount actually imposed in each instance.

CHAPTER 687

An act to amend, repeal, and add Section 8670.32 of the Government Code, relating to oil spills, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 8670.32 of the Government Code is amended to read:

8670.32. (a) The following definitions govern the construction of this section:

(1) "Marine construction vessel" means a nontank vessel and its associated equipment used for piledriving; clamshell, hydraulic, and hopper dredging; pipe laying; rock placement; heavy lifts; and demolition; and that carries less than 4,500 barrels of oil to operate on board equipment and for propulsion.

(2) "Nontank barge" means a nontank vessel that carries no more than 60 barrels of oil to operate on board equipment, and that is not designed to carry oil as cargo and not equipped with a means of self-propulsion.

(3) "Nontank vessel" means a vessel, other than a tank vessel, not designed to carry oil as cargo.

(4) (A) Except as provided in subparagraph (B), "reasonable worst case spill" means a spill of the total volume of the largest fuel tank on the nontank vessel.

(B) For purposes of marine construction vessels and nontank barges only, "reasonable worst case spill" means a spill of the total volume of fuel on the nontank vessel.

(5) "Qualified individual" means a shore-based representative of a covered nontank vessel owner or operator that, at a minimum, shall be fluent in English, located in the continental United States, be available on a 24-hour basis, and have full written authority to implement the covered nontank vessel's contingency plan.

(b) A nontank vessel of 300 gross registered tons or greater shall not operate in the marine waters of the state unless the owner or operator has an oil spill contingency plan prepared, submitted, and approved in accordance with this section.

(c) On or before September 1, 1999, each owner or operator of a nontank vessel of 300 gross registered tons or greater shall prepare an oil spill contingency plan for that vessel, and submit the plan to the administrator for review and approval. The plan may be specific to an individual vessel or may be developed using either of the following:

(1) A fleet plan submitted by an owner or operator that has a number of vessels that transit the same or substantially the same routes in marine waters of the state. This fleet plan shall contain all prevention and response elements required pursuant to this section. A separate appendix for each vessel shall be included as an attachment to the plan, and shall include both of the following:

(A) Specification of the type and total amount of fuel carried.

(B) Specification of the capacity of the largest fuel tank.

(2) The owner or operator provides evidence of a contract with the Pacific Merchant Shipping Association, a nonprofit corporation, or other nonprofit maritime association, to provide a statewide spill response plan consistent with the requirements of this section, pursuant to its applicable fee structure.

(d) The geographic regions covered by an individual plan shall be defined in regulations adopted by the administrator.

(e) In addition to all other contingency plan requirements in this section, the plan shall contain, at a minimum, a procedure for management of the resources to be used in response to an oil spill.

(f) The vessel owner or operator shall submit any information, or address any plan element that is required by this section but not addressed by a statewide spill response plan.

(g) The administrator shall adopt regulations and guidelines to implement the requirements of this section. All regulations and guidelines shall be developed in consultation with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee. The administrator shall hold a public hearing on the regulations. The regulations and guidelines shall provide for the best achievable protection of coastal and marine resources and shall include provisions for public review and comment on submitted

contingency plans prior to approval. The regulations shall ensure that a contingency plan meets all of the following requirements:

(1) Be consistent with the protection and response strategies as well as other elements addressed in the state contingency plan and the appropriate area contingency plan, and is not in conflict with the national contingency plan.

(2) Be a written document, reviewed for feasibility and approved by the owner or operator, or a person designated by the owner or operator.

(3) Establish a specific chain of command and specify the overall responsibilities of crew, supervisorial, contract, and volunteer personnel.

(4) Detail procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened discharge, or discharge.

(5) Specify lines of communication between the vessel and the on-scene commanders, response teams, and local, state, and federal response organizations.

(6) Provide for response planning, including coordination with employees, outside contractors, volunteers, and local, state, and federal agencies.

(7) Identify a qualified individual.

(8) Provide the name, address, telephone number, and facsimile number of an agent for service of process, located in the state and designated to receive legal documents on behalf of the planholder.

(9) Demonstrate that shipboard personnel have knowledge of the notification requirements and other provisions of the contingency plan.

(10) Provide for timely and effective oil spill response. This may be provided directly or through membership in, or contract with, a private or public cooperative or other organization and shall be consistent with the state contingency plan and the appropriate area contingency plan, and not in conflict with the national contingency plan.

(11) Provide evidence that the vessel is in compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(h) Each contingency plan shall be submitted and resubmitted to the administrator for review and approval as specified in Section 8670.31.

(i) (1) A nontank vessel, required to have a contingency plan pursuant to this section, shall not enter marine waters of the state unless the vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator's satisfaction, the ability to pay at least three hundred million dollars ($300,000,000) to cover damages caused by a spill, and the owner or operator of the vessel has obtained a certificate of financial responsibility from the administrator for the vessel. If the

evidence provided to the administrator by the vessel owner or operator is a federal certificate of financial responsibility, or other evidence of financial responsibility that does not comply with state requirements, and the administrator incurs costs verifying that evidence over the amount the administrator normally incurs when verifying evidence of financial responsibility, the administrator may charge the vessel owner or operator a reasonable fee for the additional costs incurred.

(2) Notwithstanding paragraph (1), the administrator may establish a lower standard of financial responsibility for nontank barges and marine construction vessels. The standard shall be based upon the quantity of oil that can be carried by the nontank barge and marine construction vessel and the risk of spill into marine waters. The administrator shall not set a standard that is less than the expected costs from a reasonable worst case oil spill into marine waters. The administrator shall extend the certificate of financial responsibility requirements for nontank barges and marine construction vessels to January 1, 2000.

(j) A nonprofit maritime association that provides spill response services pursuant to a spill response plan approved by the administrator, and its officers, directors, members, and employees shall have limited liability as follows:

(1) Section 8670.56.6 applies to any nonprofit maritime association that provides spill response services pursuant to its statewide spill response plan.

(2) A nonprofit maritime association providing spill response plan services may require, through agreement of the parties, as a condition of providing these services, the owner or operator of the nontank vessel to defend, indemnify, and hold harmless the association and its officers, directors, members, and employees from all claims, suits, or actions of any nature by whomever asserted, even though resulting, or alleged to have resulted from, negligent acts or omissions of the association or of an officer, director, member, or employee of the association in providing spill response plan services under the contract.

(3) Membership in the association or serving as a director of the association shall not, in and of itself, be grounds for liability resulting from the activities of the association in the preparation or implementation of a contingency plan.

(4) This section shall not be deemed to include the association or its officers, directors, members, or employees as a responsible party, as defined in subdivision (q) of Section 8670.3 of this code and in subdivision (p) of Section 8750 of the Public Resources Code for the purposes of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7 of this code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) This section does not limit the liability of any responsible party, as defined in subdivision (q) of Section 8670.3. The responsible party

is liable for all damages arising from a spill, as provided in subdivision (c) of Section 8670.56.6.

(k) Section 8670.56.6 applies to any person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, that contract with the nonprofit maritime association to provide spill response services for the association spill response plan.

(*l*) (1) Except as provided in paragraph (2), any nontank vessel that is subject to subdivision (b) or (i), and that enters the waters of the state in violation of subdivision (b) or (i), is subject to an administrative civil penalty of up to one hundred thousand dollars ($100,000). The administrator shall assess the civil penalty against the owner or operator of the vessel pursuant to Section 8670.68. Each day the owner or operator of a nontank vessel is in violation of subdivision (b) or (i) shall be considered a separate violation.

(2) Paragraph (1) does not apply in any of the following circumstances:

(A) A contingency plan has been submitted by the vessel owner or operator to the administrator as required by this section, and the office of the administrator is reviewing the plan and has not denied approval.

(B) The nontank vessel has entered state waters after the United States Coast Guard has determined that the vessel is in distress.

(m) (1) Except as provided in paragraph (2), any owner or operator of a nontank vessel that is subject to subdivision (b) or (i) and who knowingly and intentionally enters the waters of the state in violation of subdivision (b) or (i), is guilty of a misdemeanor punishable by up to one year of imprisonment in the county jail, or by a fine of up to ten thousand dollars ($10,000), or by both that imprisonment and fine. Each day the owner or operator of the nontank vessel is in knowing and intentional violation of subdivision (b) or (i) shall be considered a separate violation.

(2) Paragraph (1) does not apply in any of the following circumstances:

(A) A contingency plan has been submitted by the vessel owner or operator to the administrator as required by this section, and the office of the administrator is reviewing the plan and has not denied approval.

(B) The nontank vessel has entered state waters after the United States Coast Guard has determined that the vessel is in distress.

(n) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Section 8670.32 is added to the Government Code, to read:

8670.32. (a) The following definitions govern the construction of this section:

(1) "Nontank vessel" means a vessel, other than a tank vessel, not designed to carry oil as cargo.

(2) "Reasonable worst case spill" means a spill of the total volume of the largest fuel tank on the nontank vessel.

(3) "Qualified individual" means a shore-based representative of a covered nontank vessel owner or operator that, at a minimum, shall be fluent in English, located in the continental United States, be available on a 24-hour basis, and have full written authority to implement the covered nontank vessel's contingency plan.

(b) A nontank vessel of 300 gross registered tons or greater shall not operate in the marine waters of the state unless the owner or operator has an oil spill contingency plan prepared, submitted, and approved in accordance with this section.

(c) On or before September 1, 1999, each owner or operator of a nontank vessel of 300 gross registered tons or greater shall prepare an oil spill contingency plan for that vessel, and submit the plan to the administrator for review and approval. The plan may be specific to an individual vessel or may be developed using either of the following:

(1) A fleet plan submitted by an owner or operator that has a number of vessels that transit the same or substantially the same routes in marine waters of the state. This fleet plan shall contain all prevention and response elements required pursuant to this section. A separate appendix for each vessel shall be included as an attachment to the plan, and shall include both of the following:

(A) Specification of the type and total amount of fuel carried.

(B) Specification of the capacity of the largest fuel tank.

(2) The owner or operator provides evidence of a contract with the Pacific Merchant Shipping Association, a nonprofit corporation, or other nonprofit maritime association, to provide a statewide spill response plan consistent with the requirements of this section, pursuant to its applicable fee structure.

(d) The geographic regions covered by an individual plan shall be defined in regulations adopted by the administrator.

(e) In addition to all other contingency plan requirements in this section, the plan shall contain, at a minimum, a procedure for management of the resources to be used in response to an oil spill.

(f) The vessel owner or operator shall submit any information, or address any plan element that is required by this section but not addressed by a statewide spill response plan.

(g) The administrator shall adopt regulations and guidelines to implement the requirements of this section. All regulations and guidelines shall be developed in consultation with the State Interagency Oil Spill Committee and the Oil Spill Technical Advisory Committee. The administrator shall hold a public hearing on the regulations. The regulations and guidelines shall provide for the best achievable protection of coastal and marine resources and shall include provisions for public review and comment on submitted contingency plans prior to approval. The regulations shall ensure that a contingency plan meets all of the following requirements:

(1) Be consistent with the protection and response strategies as well as other elements addressed in the state contingency plan and the appropriate area contingency plan, and is not in conflict with the national contingency plan.

(2) Be a written document, reviewed for feasibility and approved by the owner or operator, or a person designated by the owner or operator.

(3) Establish a specific chain of command and specify the overall responsibilities of crew, supervisorial, contract, and volunteer personnel.

(4) Detail procedures for reporting oil spills to local, state, and federal agencies, and include a list of contacts to call in the event of a drill, threatened discharge, or discharge.

(5) Specify lines of communication between the vessel and the on-scene commanders, response teams, and local, state, and federal response organizations.

(6) Provide for response planning, including coordination with employees, outside contractors, volunteers, and local, state, and federal agencies.

(7) Identify a qualified individual.

(8) Provide the name, address, telephone number, and facsimile number of an agent for service of process, located in the state and designated to receive legal documents on behalf of the plan holder.

(9) Demonstrate that shipboard personnel have knowledge of the notification requirements and other provisions of the contingency plan.

(10) Provide for timely and effective oil spill response. This may be provided directly or through membership in, or contract with, a private or public cooperative or other organization and shall be consistent with the state contingency plan and the appropriate area contingency plan, and not in conflict with the national contingency plan.

(11) Provide evidence that the vessel is in compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(h) Each contingency plan shall be submitted and resubmitted to the administrator for review and approval as specified in Section 8670.31.

(i) A nontank vessel, required to have a contingency plan pursuant to this section, shall not enter marine waters of the state unless the vessel owner or operator has provided to the administrator evidence of financial responsibility that demonstrates, to the administrator's satisfaction, the ability to pay at least three hundred million dollars ($300,000,000) to cover damages caused by a spill, and the owner or operator of the vessel has obtained a certificate of financial responsibility from the administrator for the vessel. If the evidence provided to the administrator by the vessel owner or operator is a federal certificate of financial responsibility, or other

evidence of financial responsibility that does not comply with state requirements, and the administrator incurs costs verifying that evidence over the amount the administrator normally incurs when verifying evidence of financial responsibility, the administrator may charge the vessel owner or operator a reasonable fee for the additional costs incurred.

(j) A nonprofit maritime association that provides spill response services pursuant to a spill response plan approved by the administrator, and its officers, directors, members, and employees shall have limited liability as follows:

(1) Section 8670.56.6 applies to any nonprofit maritime association that provides spill response services pursuant to its statewide spill response plan.

(2) A nonprofit maritime association providing spill response plan services may require, through agreement of the parties, as a condition of providing these services, the owner or operator of the nontank vessel to defend, indemnify, and hold harmless the association and its officers, directors, members, and employees from all claims, suits, or actions of any nature by whomever asserted, even though resulting, or alleged to have resulted from, negligent acts or omissions of the association or of an officer, director, member, or employee of the association in providing spill response plan services under the contract.

(3) Membership in the association or serving as a director of the association shall not, in and of itself, be grounds for liability resulting from the activities of the association in the preparation or implementation of a contingency plan.

(4) This section shall not be deemed to include the association or its officers, directors, members, or employees as a responsible party, as defined in subdivision (q) of Section 8670.3 of this code and in subdivision (p) of Section 8750 of the Public Resources Code for the purposes of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7 of this code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) This section does not limit the liability of any responsible party, as defined in subdivision (q) of Section 8670.3. The responsible party is liable for all damages arising from a spill, as provided in subdivision (a) of Section 8670.56.6.

(k) Section 8670.56.6 applies to any person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, that contract with the nonprofit maritime association to provide spill response services for the association spill response plan.

(*l*) (1) Except as provided in paragraph (2), any nontank vessel that is subject to subdivision (b) or (i), and that enters the waters of the state in violation of subdivision (b) or (i), is subject to an administrative civil penalty of up to one hundred thousand dollars ($100,000). The administrator shall assess the civil penalty against the owner or operator of the vessel pursuant to Section 8670.68. Each day

the owner or operator of the nontank vessel is in violation of subdivision (b) or (i) shall be considered a separate violation.

(2) Paragraph (1) does not apply in any of the following circumstances:

(A) A contingency plan has been submitted by the vessel owner or operator to the administrator as required by this section, and the office of the administrator is reviewing the plan and has not denied approval.

(B) The nontank vessel has entered state waters after the United States Coast Guard has determined that the vessel is in distress.

(m) (1) Except as provided in paragraph (2), any owner or operator of a nontank vessel that is subject to subdivision (b) or (i) and who knowingly and intentionally enters the waters of the state in violation of subdivision (b) or (i), is guilty of a misdemeanor punishable by up to one year of imprisonment in the county jail, or by a fine of up to ten thousand dollars ($10,000), or by both that imprisonment and fine. Each day the owner or operator of the nontank vessel is in knowing and intentional violation of subdivision (b) or (i) shall be considered a separate violation.

(2) Paragraph (1) does not apply in any of the following circumstances:

(A) A contingency plan has been submitted by the vessel owner or operator to the administrator as required by this section, and the office of the administrator is reviewing the plan and has not denied approval.

(B) The nontank vessel has entered state waters after the United States Coast Guard has determined that the vessel is in distress.

(n) This section shall become operative January 1, 2001.

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:

Since the Administrator for Oil Spill Response will soon be adopting regulations to implement the contingency plan and financial assurance requirements for nontank vessels, in order to clarify the affect of those requirements upon nontank vessels, thereby protecting public health and safety and the environment, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 688

An act to amend Sections 66755 and 66756 of the Education Code, relating to cross-enrollment.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 66755 of the Education Code is amended to read:

66755. (a) The California Community Colleges, the California State University, and the University of California shall evaluate the impact of the program established by this chapter, and shall report to the California Postsecondary Education Commission on or before June 30, 2002, on student use, revenue implications, and other issues that may be identified to judge satisfactorily the program's efficiency and determine whether it should be established permanently.

(b) The California Postsecondary Education Commission shall prepare a report based on the information received from the segments pursuant to subdivision (a) and, notwithstanding Section 7550.5 of the Government Code, shall present the report, with recommendations, to the Governor and the Legislature on or before December 1, 2002. If, in the determination of the commission, the program established by this chapter appears to be underutilized, the report shall include the comments of the commission with respect to the reasons for the underutilization and options for increasing participation in the program.

SEC. 2. Section 66756 of the Education Code is amended to read:

66756. This chapter shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends that date.

CHAPTER 689

An act to amend Section 32320 of the Education Code, relating to public postsecondary education.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 32320 of the Education Code is amended to read:

32320. (a) No state-owned college, university, community college, or other school shall charge any mandatory systemwide tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees, to any of the following:

(1) Any dependent eligible to receive assistance under Article 2 (commencing with Section 890) of Chapter 4 of Division 4 of the Military and Veterans Code.

(2) (A) Any child of any veteran of the United States military who has a service-connected disability, has been killed in service, or has

died of a service-connected disability, where the annual income of the child, including the value of any support received from a parent, does not exceed the national poverty level as defined in subdivision (c).

(B) Notwithstanding Section 893 of the Military and Veterans Code, the Department of Veterans Affairs may determine the eligibility for fee waivers for a child described in subparagraph (A).

(3) Any dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. For the purposes of this paragraph, "active service of the state" refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(b) A person who is eligible for a waiver of tuition or fees under this section may receive a waiver for each academic year during which he or she applies for that waiver, but an eligible person may not receive a waiver of tuition or fees for a prior academic year.

(c) As used in this section, the "national poverty level" is the poverty threshold for one person, as most recently calculated by the Bureau of the Census of the United States Department of Commerce.

(d) The waiver of tuition or fees under this section shall apply only to a person who is determined to be a resident of California pursuant to Chapter 1 (commencing with Section 68000) of Part 41.

(e) This section shall not apply to a dependent of a veteran within the meaning of paragraph (4) of subdivision (a) of Section 890 of the Military and Veterans Code.

(f) 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.

CHAPTER 690

An act to add Section 65040.12 to the Government Code, and to add Part 3 (commencing with Section 72000) to Division 34 of the Public Resources Code, relating to environmental quality.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 65040.12 is added to the Government Code, to read:

65040.12. (a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with the Secretaries of the California Environmental Protection Agency, the Resources Agency, the Trade and Commerce Agency, the Business, Transportation, and Housing Agency, any other appropriate state agencies, and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898.

(c) For the purposes of this section, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

SEC. 2. Part 3 (commencing with Section 72000) is added to Division 34 of the Public Resources Code, to read:

PART 3. ENVIRONMENTAL JUSTICE

72000. The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following:

(a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state.

(c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies.

(d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state.

(e) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.

72001. On or before January 1, 2001, the California Environmental Protection Agency shall develop a model environmental justice mission statement for boards, departments, and offices within the agency. For purposes of this section, environmental justice has the same meaning as defined in subdivision (c) of Section 65040.12 of the Government Code.

CHAPTER 691

An act to add Section 54444.5 to the Education Code, relating to migrant children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 54444.5 is added to the Education Code, to read:

54444.5. The reorganization of service regions established pursuant to Section 54444.1 shall not affect the right to retain salary, leaves, and other benefits of persons employed in positions that do not require certification as follows:

(a) An employee of a service region that is included in any other service region shall become the employee of the new service region if the new service region has an equivalent vacant position that the new service region elects to fill in its program for migratory children.

(b) When a portion of the service region of a regional service center becomes part of another regional service center, an employee regularly assigned to perform duties in the service region affected shall become the employee of the acquiring regional service center if the acquiring regional service center has an equivalent vacant position that the acquiring regional service center elects to fill in its program for migratory children. An employee whose assignment pertained to the affected service region, but whose employment site was not in the service region, may elect to remain with the original regional service center or become the employee of the acquiring regional service center if the acquiring regional service center has an equivalent vacant position that the acquiring regional service center elects to fill in its program for migratory children.

(c) When the service region of any regional service center is divided between, or among, two or more regional service centers and the original regional service center ceases to exist, an employee of the original regional service center regularly assigned to perform duties in any specific service region shall become the employee of the regional service center acquiring the service region if the acquiring

regional service center has an equivalent vacant position that the acquiring regional service center elects to fill in its program for migratory children. An employee not assigned to a specific service region within the original regional service center shall become the employee of any acquiring regional service center at the election of the employee if the acquiring regional service center has an equivalent vacant position that the acquiring regional service center elects to fill in its program for migratory children.

(d) If, pursuant to this section, an employee of a service region is unable to become an employee of a new or acquiring service region because there are no equivalent vacant positions available in the new or acquiring service region, that employee shall be placed on an eligibility list for an equivalent position for the migrant education program in the new or acquiring service region for a period of not less than 39 months.

(e) A service region that employs individuals pursuant to this section shall do so on a seniority basis.

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.

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 protect the positions of employees who will be affected by an impending transfer of a migrant education program, it is necessary that this act take effect immediately.

CHAPTER 692

An act to amend Section 96 of the Labor Code, relating to employment.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds and declares that, absent the protections afforded to employees by the Labor Commissioner, an individual employee is ill-equipped and unduly disadvantaged in any effort to assert the civil rights otherwise guaranteed by Article I of the

California Constitution. The Legislature further finds and declares that allowing any employer to deprive an employee of any constitutionally guaranteed civil liberties, regardless of the rationale offered, is not in the public interest. The Legislature further declares that this act is necessary to further the state interest in protecting the civil rights of individual employees who would not otherwise be able to protect themselves.

SEC. 2. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his or her deputies and representatives authorized by him or her in writing shall, upon the filing of a claim therefor by an employee, or an employee representative authorized in writing by an employee, with the Labor Commissioner, take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics' and other liens of employees.

(c) Claims based on "stop orders" for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workers' tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workers' compensation benefits in which the Workers' Compensation Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.

(j) Claims for loss of wages as the result of discharge from employment for the garnishment of wages.

(k) Claims for loss of wages as the result of demotion, suspension, or discharge from employment for lawful conduct occurring during nonworking hours away from the employer's premises.

CHAPTER 693

An act to add Article 3 (commencing with Section 104550) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to tobacco.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 3 (commencing with Section 104550) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 3. Cigar Labeling

104550. (a) Each manufacturer or importer of cigars shall place, or cause to be placed, labels bearing one of the following warnings on each retail package of cigars packaged for sale after September 1, 2000, and shipped for distribution in California:

"Warning: Cigars contain many of the same carcinogens found in cigarettes, and cigars are not a safe substitute for smoking cigarettes. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm."

"Warning: Smoking cigars regularly poses risks of cancer of the mouth, throat, larynx, and esophagus similar to smoking cigarettes. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm."

"Warning: Smoking cigars causes lung cancer, heart disease, and emphysema, and may complicate pregnancy. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm."

(b) Commencing September 1, 2000, retail packages of cigars bearing the labels required by subdivision (a) shall be introduced in the distribution chain by the manufacturer or importer so that approximately equal numbers of retail packages of each brand of cigars will bear each of the labels required by subdivision (a) during each 12-month period, subject to any practical limitations of the printing equipment used by the manufacturer or importer for other similar conditions.

(c) For purposes of this article, "cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, but shall not include any roll of tobacco wrapped in any substance which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

(d) The labels required in subdivision (a) shall appear on the outside surface of retail packages in which cigars are sold or on the cellophane overwrap of the packages and shall be displayed in a clear and reasonable manner so that all letters in the label appear in

conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package. Display boxes or containers used to sell individual cigars are required to bear a warning label so that the warning can ordinarily be read by retail customers removing products from that box or container. Labels required by subdivision (a) may be preprinted, at the discretion of the manufacturer or importer, if firmly attached to the retail package or cellophane overwrap in such a way that the surface of the label is destroyed before the label can be removed from the package or overwrap.

(e) As used in this section, "retail package" means a pack, box, carton, pouch, or container of any kind in which cigars are offered for sale, sold, or otherwise distributed to consumers but does not include cellophane wrappers, tubes, or similar wrappings in which individual cigars are sold, and does not include shipping cartons or other containers not normally purchased by consumers.

(f) The warnings required by this section shall supersede the required warning language as stipulated by the parties in People of the State of California, ex rel. John Van DeKamp v. Safeway Stores, Inc., et al., San Francisco Superior Court No. 897576. It is the intent of the Legislature that the enactment of this section shall not affect the litigation in People of the State of California, et al. v. General Cigar Company, et al., San Francisco Superior Court No. 996780; People of the State of California and American Environmental Safety Institute v. Phillip Morris, Inc., et al., Los Angeles Superior Court No. BC194217; and People of the State of California, et al. v. Tobacco Exporters International (USA), Ltd., et al., San Francisco Superior Court No. 301631.

(g) Any person who violates subdivision (a) shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation in addition to any other penalty established by law. A civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(h) Actions pursuant to this section may be brought by the Attorney General in the name of the people of the State of California, by any district attorney, by any city attorney of a city having a population in excess of 750,000 people and with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor.

104551. For purposes of this article, "manufacturer" means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished cigar.

104552. To the extent this article conflicts with any federal provision enacted subsequent to the effective date of this article that requires cigar manufacturers and importers to provide warning

labels on cigars, those federal provisions shall supersede the provisions of this article.

CHAPTER 694

An act to amend Section 189 of the Penal Code, relating to murder.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, carjacking, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 206, 286, 288, 288a, or 289, or any murder which is perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict death, is murder of the first degree. All other kinds of murders are of the second degree.

As used in this section, "destructive device" means any destructive device as defined in Section 12301, and "explosive" means any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

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.

CHAPTER 695

An act to amend Sections 1242, 1242.5, 1246, and 1269 of the Business and Professions Code, and to amend Section 120580 of the Health and Safety Code, relating to clinical laboratories.

[Approved by Governor October 6, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. Section 1242 of the Business and Professions Code is amended to read:

1242. Any person duly licensed under the provisions of this chapter to perform tests called for in a clinical laboratory may perform skin tests for specific diseases, arterial puncture, venipuncture, or skin puncture for purposes of withdrawing blood or for clinical laboratory test purposes as defined by regulations established by the department and upon specific authorization from any person in accordance with the authority granted under any provisions of law relating to the healing arts.

SEC. 2. Section 1242.5 of the Business and Professions Code is amended to read:

1242.5. Notwithstanding paragraphs (2) and (3) of subdivision (b) of Section 1241, the department may by regulation authorize laboratory personnel certified pursuant to Section 1246 to perform venipuncture, arterial puncture, or skin puncture for the purposes of withdrawing blood or for clinical laboratory test purposes, as defined by regulations established by the department.

SEC. 3. Section 1246 of the Business and Professions Code is amended to read:

1246. (a) Except as provided in subdivision (b), and in Section 23158 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood or for clinical laboratory test purposes upon specific authorization from a licensed physician and surgeon provided that he or she meets both of the following requirements:

(1) He or she works under the supervision of a person licensed under this chapter or of a licensed physician or surgeon or of a licensed registered nurse. A person licensed under this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to be summoned to the scene of the venipuncture within five minutes during the performance of those procedures.

(2) He or she has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Health Services and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that such training has been successfully completed.

(b) (1) On and after the effective date of the regulations specified in paragraph (2), any unlicensed person employed by a clinical laboratory performing the duties described in this section

shall possess a valid and current certification as a "certified phlebotomy technician" issued by the department. However, an unlicensed person employed by a clinical laboratory to perform these duties pursuant to subdivision (a) on that date shall comply with this requirement within three years after the effective date of those regulations.

(2) The department shall adopt regulations for certification by January 1, 2001, as a "certified phlebotomy technician" that shall include all of the following:

(A) The applicant shall hold a valid, current certification as a phlebotomist issued by a national accreditation agency approved by the department, and shall submit proof of that certification when applying for certification pursuant to this section.

(B) The applicant shall complete education, training, and experience requirements as specified by regulations that shall include, but not be limited to, the following:

(i) At least 40 hours of didactic instruction.

(ii) At least 40 hours of practical instruction.

(iii) At least 50 successful venipunctures.

However, an applicant who has been performing these duties pursuant to subdivision (a) may be exempted from the requirements specified in clauses (ii) and (iii), and from 20 hours of the 40 hours of didactic instruction as specified in clause (i), if he or she has at least 1,040 hours of work experience, as specified in regulations adopted by the department.

It is the intent of the Legislature to permit persons performing these duties pursuant to subdivision (a) to use educational leave provided by their employers for purposes of meeting the requirements of this section.

(3) Each "certified phlebotomy technician" shall complete at least three hours per year or six hours every two years of continuing education or training. The department shall consider a variety of programs in determining the programs that meet the continuing education or training requirement.

(4) He or she has been found to be competent in phlebotomy by a licensed physician and surgeon or person licensed pursuant to this chapter.

(5) He or she works under the supervision of a licensed physician and surgeon, licensed registered nurse, or person licensed under this chapter, or the designee of a licensed physician and surgeon or the designee of a person licensed under this chapter.

(6) The department shall adopt regulations establishing standards for approving training programs designed to prepare applicants for certification pursuant to this section. The standards shall ensure that these programs meet the state's minimum education and training requirements for comparable programs.

(7) The department shall adopt regulations establishing standards for approving national accreditation agencies to administer certification examinations and tests pursuant to this section.

(8) The department shall charge fees for application for and renewal of the certificate authorized by this section of no more than twenty-five dollars ($25).

(c) The department may adopt regulations providing for the issuance of a certificate to an unlicensed person employed by a clinical laboratory authorizing only the performance of skin punctures for test purposes.

SEC. 4. Section 1269 of the Business and Professions Code is amended to read:

1269. (a) Unlicensed laboratory personnel may perform any of the activities identified in subdivision (b), in a licensed clinical laboratory, under the direct and constant supervision of a physician and surgeon, or a person licensed under this chapter other than a trainee, upon meeting all of the following criteria:

(1) Have earned a high school diploma, or its equivalent, as determined by HCFA under CLIA.

(2) Have documentation of training appropriate to ensure that the individual has all of the following skills and abilities:

(A) The skills required for proper specimen collection, including patient preparation, labeling, handling, preservation or fixation, processing or preparation, and transportation and storage of specimens.

(B) The skills required for assisting a licensed physician and surgeon or personnel licensed under this chapter, other than trainees, in a licensed clinical laboratory.

(C) The skills required for performing preventive maintenance, and troubleshooting.

(D) A working knowledge of reagent stability and storage.

(E) The skills required for assisting in the performance of quality control procedures, and an understanding of the quality control policies of the laboratory.

(F) An awareness of the factors that influence test results.

(b) The activities that may be performed are:

(1) Biological specimen collection, including patient preparation, labeling, handling, preservation or fixation, processing or preparation, and transportation and storage of specimens.

(2) Assisting a licensed physician and surgeon or personnel licensed under this chapter, other than trainees, in a licensed clinical laboratory.

(3) Assisting in preventive maintenance, and troubleshooting.

(4) Preparation and storage of reagents and culture media.

(5) Assisting in the performance of quality control procedures.

(c) Notwithstanding subdivision (a), unlicensed laboratory personnel, other than a trainee, may, under the supervision and control of a physician and surgeon or person licensed under this

chapter, perform specimen labeling, handling, preservation or fixation, processing or preparation, transportation, and storing if he or she meets the requirements of subparagraph (A) of paragraph (2) of, and paragraph (1) of, subdivision (a).

(d) Unlicensed laboratory personnel shall not do any of the following:

(1) Record test results, but he or she may transcribe results that have been previously recorded, either manually by a physician and surgeon or personnel licensed under this chapter, or automatically by a testing instrument.

(2) Perform any test or part thereof that involves the quantitative measurement of the specimen or test reagent, or any mathematical calculation relative to determining the results or the validity of a test procedure.

(3) Perform any phase of clinical laboratory tests or examinations in the specialty of immunohematology beyond initial collection and centrifugation.

(e) When any of the following manual methods are employed, the activities of unlicensed laboratory personnel shall be limited as follows:

(1) In the case of qualitative and semi-quantitative "spot, tablet, or stick" tests, the personnel may add the test reagent to the specimen or vice versa, but the results must be read by a physician and surgeon or person licensed under this chapter.

(2) In the case of microbiological tests the unlicensed laboratory personnel may make primary inoculations of test material onto appropriate culture media, stain slide preparations for microscopic examination, and subculture from liquid media.

(f) When any of the following mechanical or electronic instruments are employed, unlicensed laboratory personnel shall not perform any of the following activities:

(1) Standardizing or calibrating the instrument or assessing its performance by monitoring results of appropriate standards and control.

(2) Reading or recording test results, except that the personnel may transcribe results that have been previously recorded automatically by a testing instrument.

(3) Quantitatively measuring any sample or reagents unless done automatically by the instrument in the course of its normal operation or by the use of previously calibrated and approved automatic syringes or other dispensers.

SEC. 5. Section 120580 of the Health and Safety Code is amended to read:

120580. Notwithstanding any other provision of law, a person employed by a public health department may perform venipuncture or skin puncture for the purpose of withdrawing blood for test purposes, upon specific authorization from a licensed physician and surgeon, even though he or she is not otherwise licensed to withdraw

blood; provided that the person meets all of the following requirements:

(1) He or she works under the direction of a licensed physician and surgeon.

(2) He or she has been trained by a licensed physician and surgeon or by a licensed clinical laboratory scientist or bioanalyst in the proper procedures to be employed when withdrawing blood, in accordance with training requirements established by the department, and has a statement signed by the instructing physician and surgeon that the training has been successfully completed.

(b) Any person employed by a public health department to perform venipuncture or skin puncture shall hold a valid and current certification after the effective date of the regulations adopted pursuant to Section 1246 of the Business and Professions Code.

CHAPTER 696

An act to add Article 2.5 (commencing with Section 6590) to Chapter 5 of Part 1 of Division 6 of the Health and Safety Code, relating to districts.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 2.5 (commencing with Section 6590) is added to Chapter 5 of Part 1 of Division 6 of the Health and Safety Code, to read:

Article 2.5. Central Contra Costa Sanitary District

6590. Notwithstanding any other provision of law, this article shall apply only to the Central Contra Costa Sanitary District.

6591. (a) In the case of an elected district board, the directors may be elected by divisions if a majority of the voters voting upon the question are in favor of the question at a general district or special election. Conversely, in the case of a district that has an elected district board which is elected by election division, the directors may be elected at large if a majority of the voters voting upon the question are in favor of the question at a general district or special election.

(b) As used in this section, "election by division" means the election of each member of the district board by voters of only the respective election division.

(c) The district board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at

least 5 percent of the registered voters of the district, the district board shall adopt a resolution placing the question on the ballot.

(d) If the question is submitted to the voters at a general district election, the notice required by Section 12112 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(e) If the majority of voters voting upon the question approves the election of directors by divisions, the district board shall promptly adopt a resolution dividing the district into as many divisions as there are directors. The resolution shall assign a number to each division. Using the last decennial census as a basis, the divisions shall be as nearly equal in population as possible. In establishing the boundaries of the divisions the district board may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the divisions.

(f) If the majority of voters voting upon the question approves the election of directors by division, the board members shall be elected by election divisions and each member elected shall be a resident of the election division from which he or she is elected. At the district general election following the approval by the voters of the election of directors by divisions, the district board shall assign vacancies on the board created by the expiration of terms to the respective election divisions and the vacancies shall be filled from those election divisions.

(g) If the majority of voters voting upon the question approves the election of directors at large, the district board shall promptly adopt a resolution dissolving the election divisions which had existed.

6592. In the case of a district board elected by election divisions, the district board shall adjust the boundaries of the election divisions before November 1 of the year following the year in which each decennial federal census is taken. If at any time between each decennial federal census a change of organization alters the population of the district or the district increases or decreases the number of members of the district board, the district board shall reexamine the boundaries of its election divisions. If the district board finds that the population of any election division has varied so that the divisions no longer meet the criteria specified in subdivision (c) of Section 6591, the district board shall adjust the boundaries of the election divisions so that the divisions shall be as nearly equal in population as possible. The district board shall make this change within 60 days of the effective date of the change of organization or an increase or decrease in the number of members of the district board.

6593. (a) Before circulating any petition pursuant to Section 6591, the chief petitioners shall publish a notice of intention which shall include a written statement not to exceed 500 words in length,

setting forth the reasons for the proposal. The notice shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the district. If the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(b) The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

"Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition affecting the Board of Directors of the _____ (name of the district). The petition proposes that _____ (description of the proposal)."

(c) Within five days after the date of publication, the chief petitioners shall file with the secretary of the district board a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(d) After the filing required pursuant to subdivision (c), the petition may be circulated for signatures.

6594. (a) Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

(b) A petition may consist of a single instrument or separate counterparts. The chief petitioner or petitioners shall file the petition, together with all counterparts, with the secretary of the district board. The secretary shall not accept a petition for filing unless the signatures have been secured within six months of the date on which the first signature was obtained and the chief petitioner or petitioners submitted the petition to the secretary for filing within 60 days after the last signature was obtained.

6595. (a) Within 30 days after the date of filing a petition, the secretary of the district board shall cause the petition to be examined and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

(b) The secretary shall cause the names of the signers on the petition to be compared with the voters' register in the office of the county clerk or registrar of voters and ascertain (1) the number of registered voters in the district, and (2) the number of qualified signers appearing upon the petition.

(c) If the certificate of the secretary shows the petition to be insufficient, the secretary shall immediately give notice by certified mail of the insufficiency to the chief petitioners. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, the chief petitioners may

file with the secretary a supplemental petition bearing additional signatures.

(d) Within 10 days after the date of filing a supplemental petition, the secretary shall examine the supplemental petition and certify in writing the results of his or her examination.

(e) The secretary shall sign and date a certificate of sufficiency. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the secretary's examination. The secretary shall mail a copy of the certificate of sufficiency to the chief petitioners.

(f) Once the chief petitioners have filed a sufficient petition, the district board shall take the actions required pursuant to Section 6591.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable to the Central Contra Costa Sanitary District, as regards the disproportionate representation of certain geographic areas on the district board, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

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.

CHAPTER 697

An act to amend Sections 15111 and 21000 of, and to add and repeal Section 15321 to, the Elections Code, relating to elections.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 15111 of the Elections Code is amended to read:

15111. The elections official shall keep an accurate list of all voters who have received and voted an absentee ballot at each election and compare this list with the roster of voters as provided in Section 15278. That list shall include the election precinct of the voter.

SEC. 2. Section 15321 is added to the Elections Code, to read:

15321. (a) For any statewide election or special election to fill a vacancy in a congressional or legislative office, conducted on or after

June 1, 2000, votes cast by absentee ballot and votes cast at the polling place shall be tabulated by precinct.

(b) The election returns compiled pursuant to subdivision (a) shall be made available to the Legislature or any appropriate committee of the Legislature for use in connection with the reapportionment of legislative districts pursuant to Section 21000.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. Section 21000 of the Elections Code is amended to read:

21000. The county elections official in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature any information and statistics that may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, lists showing the election returns for each precinct, and election returns for each precinct reflecting the vote total for all ballots cast, including both absentee ballots and ballots cast at polling places, compiled pursuant to subdivision (a) of Section 15321 in the county at each statewide election. If the county elections official stores the information and statistics in data-processing files, he or she shall make the files available, along with whatever documentation shall be necessary in order to allow the use of the files by the appropriate committee of the Legislature and shall retain these files until the next reapportionment has been completed.

Each precinct shall be identified according to the census tract or enumeration district in which it is located. When a precinct is divided among two or more census tracts or enumeration districts, the county elections official shall include an estimate of the proportion of the precinct's registered voters in each census tract or enumeration district. If the United States Bureau of the Census divides or alters any census tract or enumeration district between the time of an election and the census upon which the reapportionment is based, the county elections official shall provide whatever corrections or additional information may be necessary to reflect those changes.

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.

CHAPTER 698

An act to add Title 17 (commencing with Section 3272) to the Civil Code, relating to computer liability.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The Year 2000 Problem, characterized by the failure of computers to function because of an inability to recognize dates after December 31, 1999, poses a substantial risk to the welfare of the citizens, businesses, and State of California.

(b) Massive efforts are underway in both the public and private sectors to prepare all "mission critical" computer systems to recognize the year 2000, thereby protecting against computer failures that could jeopardize our public safety, our economic health, and disrupt the life of every Californian.

(c) Due to the risks and costs associated with the Year 2000 Problem it is necessary for the state to minimize the number of variables involved in the Year 2000 Problem compliance effort for the state, its citizens, and businesses.

SEC. 2. Title 17 (commencing with Section 3272) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 17. YEAR 2000 PROBLEM LIABILITY

3272. It is the intent of the Legislature to clearly define the legal standards that relate to the Year 2000 Problem and the extent to which state statute conforms to Public Law 106-37 of the United States Code.

3272.1. For purposes of this title, the following definitions shall apply:

(a) "Year 2000 Problem" has the same meaning as that set forth in subdivision (a) of Section 3269.

(b) "Public entity" means the state, county, city, special district or other political subdivision, therein.

(c) "Small business" means any unincorporated business, partnership, corporation, association, or organization with fewer than 50 full-time employees.

(d) "Civil fine" means any civil fine or penalty or any administrative fine, penalty, or late fee, not including interest.

3272.2. Except as provided by this title, no provision of state statute shall be construed to limit damages or liability, afford greater protection to defendants in Year 2000 Problem actions, or provide a

greater degree of protection from joint or several liability than is afforded by Public Law 106-37 of the United States.

3272.3. (a) Except as provided by this section, no state agency shall impose any civil fine on a small business for a violation of an administrative rule or regulation or a noncriminal statute as a result of a Year 2000 Problem suffered by the small business if both of the following conditions are met:

(1) The rule or regulation in question has not been violated by the small business within the preceding three years.

(2) The small business has made a good faith effort to prevent, and effectively remediate, potential Year 2000 Problems.

(b) Except as provided by this section, no state agency shall impose any civil fine on a small business for a violation of a state rule or regulation as a result of a Year 2000 Problem that occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property.

(c) Subdivisions (a) and (b) shall only apply if the small business has done all of the following:

(1) Upon identification of a violation, initiated reasonable and prompt measures to correct the violation.

(2) Submitted notice to the appropriate state agency of a violation within five business days of the initial identification of the violation.

(3) The small business corrected the violation not later than one month after initial notification to the appropriate state agency.

(d) Subdivisions (a) and (b) shall not apply to violations if an agency determines any of the following:

(1) That a failure to comply with rules or regulations resulted in actual harm, or constitutes an imminent threat, to public health or safety.

(2) That a failure to comply with rules or regulations resulted in actual harm, or constitutes an imminent threat, to the environment.

(3) That a failure to comply with rules or regulations resulted in a substantial financial injury to any individual or organization.

(e) Not later than January 31, 2000, and until December 31, 2000, each state agency shall establish a point of contact within the agency to act as a liaison between the agency and small businesses with respect to the duties prescribed by this section.

(f) This section shall not apply to violations caused by a Year 2000 Problem occurring after December 31, 2000.

3272.4. Nothing in this title shall create a new cause of action, and except as otherwise explicitly provided in this title, nothing in this title shall expand any liability otherwise imposed under state law.

3272.7. Nothing in this title shall supersede any provision of Title 17 (commencing with Section 3269) of the Civil Code and Title 1 (commencing with Section 1) of the Government Code, or abrogate any rights, obligations, limitations on damages applicable to public entities, or remedies applicable to public entities under existing law.

3272.9. This title shall become inoperative on July 1, 2001.

CHAPTER 699

An act to amend Sections 23355.1, 23399, 24045.5, 24071.2, and 25503.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 23355.1 of the Business and Professions Code is amended to read:

23355.1. Notwithstanding any other provision of this division, the following acts are authorized:

(a) Deliveries of distilled spirits by a licensee to a retail licensee may be made from the vendor's licensed premises or from a warehouse located within the county in which the vendor's licensed premises are located except as permitted by Section 23383. Deliveries to a licensed importer may also be made from any point outside the state.

(b) A distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits rectifier general, or rectifier may store, bottle, cut, blend, mix, flavor, color, label, and package distilled spirits owned by another distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits rectifier general, rectifier, or a distilled spirits wholesaler, and may deliver those distilled spirits from the premises where stored, bottled, cut, blended, mixed, flavored, colored, labeled, or packaged, or from a warehouse located in the same county as that premises for the account of the owner of those distilled spirits to any licensee that owner would be authorized to deliver to under his or her own license, except to a retail licensee.

(c) A distilled spirits manufacturer, distilled spirits manufacturer's agent, distilled spirits rectifier general, rectifier, or distilled spirits wholesaler may store and deliver distilled spirits for the account of another licensee who would be authorized to make the delivery under his or her own license, except that licensee shall not make a delivery to a retail licensee on behalf of another licensee.

(d) A retail off-sale licensee with annual United States auction sales revenues of at least five hundred million dollars ($500,000,000) or annual wine auction sales revenues of at least five million dollars ($5,000,000), may sell wine consigned by any person, whether or not the auctioned wine is "vintage wine" as defined in Section 23104.6, at any auction held in compliance with Section 2328 of the

Commercial Code to consumers and retail licensees and may deliver wines sold to any purchaser at that auction from the vendor's licensed premises or from any other storage facility.

SEC. 2. Section 23399 of the Business and Professions Code is amended to read:

23399. (a) An on-sale general license authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Any licensee under an on-sale general license, a club license, or a veterans' club license may apply to the department for a caterer's permit. A caterer's permit under an on-sale general license shall authorize the sale of beer, wine, and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events held any place in the state approved by the department. A caterer's permit under a club license or a veterans' club license shall authorize sales at these events only upon the licensed club premises.

(b) Any licensee under an on-sale general license or an on-sale beer and wine license may apply to the department for an event permit. An event permit under an on-sale general license or an on-sale beer and wine license shall authorize, at events held no more frequently than one day in any single calendar quarter, the sale of beer, wine, and distilled spirits only under an on-sale general license or beer and wine only under an on-sale beer and wine license for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. For purposes of this subdivision, "calendar quarter" means January 1 to March 31, inclusive, April 1 to June 30, inclusive, July 1 to September 30, inclusive, or October 1 to December 31, inclusive, of any calendar year.

(c) This section shall in no way limit the power of the department to issue special licenses under the provisions of Section 24045 or to issue daily on-sale general licenses under the provisions of Section 24045.1. Consent for sales at each event shall be first obtained from the department in the form of a catering or event authorization issued pursuant to rules prescribed by it. Any event authorization shall be subject to approval by the appropriate local law enforcement agency. Each catering or event authorization shall be issued at a fee not to exceed ten dollars ($10) and this fee shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(d) At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises.

(e) The fee for a caterer's permit for a licensee under an on-sale general license or an event permit for a licensee under an on-sale

general license or an on-sale beer and wine license shall be one hundred dollars ($100) per year, and the fee for a caterer's permit for a licensee under a club license or a veterans' club license shall be a sum equal to the annual fee for an on-sale general license prescribed by Section 23320, and the permit may be renewable annually at the same time as the licensee's license. A caterer's or event permit shall be transferable as a part of the license.

SEC. 3. Section 24045.5 of the Business and Professions Code is amended to read:

24045.5. The department in its discretion may issue a temporary permit to the transferee of any license to continue the operation of the premises during the period a transfer application for the license from person to person at the same premises is pending and when all the following conditions exist:

(a) The premises shall have been operated under a license within 30 days of the date of filing the application for a temporary permit.

(b) The license for the premises shall have been surrendered pursuant to rules of the department.

(c) The applicant for the temporary permit shall have filed with the department an application for transfer of the license at the premises to himself or herself.

(d) The application for the temporary permit shall be accompanied by a temporary permit fee of one hundred dollars ($100).

A temporary permit issued by the department pursuant to this section shall be for a period not to exceed 120 days. A temporary permit may be extended at the discretion of the department for an additional 120-day period upon payment of an additional fee of one hundred dollars ($100) and upon compliance with all conditions required herein. A temporary permit is a conditional permit and authorizes the holder thereof to sell the alcoholic beverages as would be permitted to be sold under the privileges of the license for which the transfer application has been filed with the department.

Purchase of beer and wine by the holder of a temporary permit shall be made only upon payment before or at the time of delivery in currency or by check. Purchase of distilled spirits by the holder of a temporary permit shall be made only upon payment before or at the time of delivery in currency or by certified check. However, the holder of a temporary retail permit who also holds one or more retail licenses and is operating under the retail license or licenses in addition to the temporary permit, and who is not delinquent under the provisions of Section 25509 as to any retail license under which he or she operates, may purchase alcoholic beverages on credit under the temporary permit.

All checks received by a seller for beer or wine purchased by the holder of a temporary retail permit shall be deposited not later than the second business day following the date the beer or wine is delivered.

A check dishonored on presentation shall not be deemed payment. The receipt by the seller or his or her agent in good faith from a holder of a temporary permit of a check dishonored on presentation shall not be cause for disciplinary action against the seller.

Transfer of the license for which the holder of a temporary permit has filed an application shall not be approved by the department until the holder of the temporary permit has filed with the department a statement executed under penalty of perjury that all current obligations have been discharged, and that all outstanding checks issued by him or her in payment for alcoholic beverages will be honored on presentation.

It shall not be a violation of this section or otherwise grounds for disciplinary action for any licensee to extend credit to the holder of a temporary permit or to receive payment from the permittee in a manner other than authorized herein unless the seller had knowledge of the fact that the purchaser was operating under a temporary permit. Knowledge of the fact may be established by evidence, including, but not limited to, evidence that, at the time of receipt of payment or the extension of credit, the premises operated under a temporary permit were posted with the notice required by Section 23985, or the holder of the temporary permit had recorded notice as required by Section 24073, or the holder of the temporary permit had published notice as required by Section 23986, or the holder of the temporary permit had recorded and published notice pursuant to Division 6 (commencing with Section 6101) of the Commercial Code.

Refusal by the department to issue or extend a temporary permit shall not entitle the applicant to petition for the permit pursuant to Section 24011, or to a hearing pursuant to Section 24012. Articles 2 (commencing with Section 23985) and 3 (commencing with Section 24011) shall not apply to temporary permits.

Notwithstanding any other provision of law, a temporary permit may be canceled or suspended summarily at any time if the department determines that good cause for the cancellation or suspension exists. Chapter 8 (commencing with Section 24300) shall not apply to temporary permits.

Application for a temporary permit shall be on any form the department shall prescribe. If an application for temporary permit is withdrawn before issuance or is refused by the department, the fee which accompanied the application shall be refunded in full, and Section 23959 shall not apply. Fees received by the department for issuance of temporary permits shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 4. Section 24071.2 of the Business and Professions Code is amended to read:

24071.2. (a) When the ownership of 50 percent or more of the membership interests in a limited liability company required to report the issuance or transfer of memberships under Section 23405.2

is acquired by or transferred to a person or persons who did not hold the ownership of 50 percent of the membership interests on the date the license was issued to the limited liability company, the license of the limited liability company shall be transferred to the limited liability company as newly constituted. The fee for the transfer shall be equal to 50 percent of the original fee for the license, except that the minimum fee shall be one hundred dollars ($100) and the maximum fee shall be eight hundred dollars ($800). In situations involving the multiple and simultaneous transfer of licenses under this section, the regular transfer fee shall be required for only one of the licenses being transferred and the remainder of the licenses shall be transferred for a fee of one hundred dollars ($100) each. All of the transfer fees collected pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, as provided in Section 25761. Before the license is transferred, the department shall conduct an investigation pursuant to Section 23958. Any person or persons who own 50 percent or more of the membership interests of the limited liability company shall have all the qualifications required of a person holding the same type of license.

(b) No retail license shall be transferred by a limited liability company under this section unless, before the filing of the transfer application with the department, the company initiating the transfer records, in the office of the county recorder of the county or counties in which the premises to which the license has been issued are situated, a notice of the intended transfer, stating all of the following:

(1) The name and address of the limited liability company.

(2) The name and address of the person or persons acquiring ownership of 50 percent or more of the membership interests of the limited liability company.

(3) The amount of the consideration paid for the membership interests.

(4) The kind of license or licenses intended to be transferred.

(5) The address or addresses of the premises to which the license or licenses have been issued.

A copy of the notice of the intended transfer, certified by the county recorder, shall be filed with the department together with the transfer application.

(c) Notwithstanding any other provision of this division to the contrary, a limited liability company as newly constituted by transfer under this section shall not be eligible for any new credit from any person named in Section 25509 until all delinquent payments owed by the limited liability company as formerly constituted are made, nor shall any retail licensee, by transferring its license under this section, avoid the provisions of Section 25509 with regard to 42-day or 30-day periods, percentage charges for unpaid balances, or cash-on-delivery basis.

(d) Nothing in this section shall be deemed to authorize the formation of a limited liability company composed of only one

member in violation of subdivision (b) of Section 17050 of the Corporations Code.

SEC. 5. Section 25503.2 of the Business and Professions Code is amended to read:

25503.2. (a) Notwithstanding any other provision in this division, any winegrower, wine blender, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, rectifier, distilled spirits wholesaler, and beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the following services for off-sale retail licensees at or on the premises of the off-sale retail licensee with the retail licensee's permission:

(1) Stack or arrange cases of the brand or brands of alcoholic beverages owned or sold by the licensee performing the service in the storeroom or warehouse where the off-sale retail licensee stores the brand or brands.

(2) Rotate the brand or brands owned or sold by the licensee performing the service on shelves and in refrigerated boxes, and rearrange bottles or packages of the brand or brands by moving the bottles or packages horizontally or vertically from shelf to shelf in the space and shelves allocated to the brand or brands. This paragraph does not permit the removal of any brand or brands of alcoholic beverages, except beer, which are owned or sold by the licensee performing the service, from the storeroom or other place belonging to an off-sale retailer for the purpose of replacing alcoholic beverages on or restocking shelves or refrigerated boxes.

(3) Take an inventory of an off-sale retailer's stock of a brand or brands of alcoholic beverages which are owned or sold by the licensee performing the service and which are in the stockroom or other place belonging to the off-sale retailer.

(4) Service the brand or brands of alcoholic beverages owned or sold by the licensee performing the service which are on shelves, fixtures, or other display pieces at the off-sale retail premises, including, but not limited to dusting bottles and shelves and refrigerated boxes allocated to the brand or brands at the retail premises. The licensees authorized to render services by this section and their agents and representatives may not price-mark individual containers of the brand of alcoholic beverages, except beer, owned or sold by the licensee performing the service, except for individual bottles used on floor displays.

(5) Rotate or rearrange the brand or brands of wine or distilled spirits owned or sold by the licensee on, in, or among permanent shelves, permanent fixtures, refrigerated boxes, or floor or other displays or display pieces; stock the brand or brands onto or into floor or other displays or display pieces; and stock the brand or brands onto or into permanent shelves, permanent fixtures, or refrigerated boxes for the sole purposes of the introduction of new products, the

resetting or rearrangement of existing products, or the setting or arranging of new stores. Incidental touching or rearrangement of the brand or brands of another licensee by a licensee performing any of the services authorized by this paragraph for the sole purpose of accessing permanent shelves, permanent fixtures, and other spaces allocated to the licensee performing the service shall not be deemed to be a violation of any provision of this division provided the other licensee's brands are not removed from spaces allocated to that licensee. Nothing in this paragraph permits stocking permanent shelves, permanent fixtures, or refrigerated boxes for regular inventory replenishment.

(b) Notwithstanding any other provision in this division, any beer manufacturer or beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the services specified in paragraphs (1) to (4), inclusive, of subdivision (a), with respect to beer, for on-sale retail licensees at or on the premises of the on-sale retail licensee with the retail licensee's permission.

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.

CHAPTER 700

An act to amend Section 2790 of, and to add Sections 327 and 381.5 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 327 is added to the Public Utilities Code, to read:

327. (a) The electric and gas corporations that participate in the California Alternative Rates for Energy program, as established pursuant to Section 739.1, shall administer low-income energy efficiency and rate assistance programs described in Sections 739.1, 739.2, and 2790, subject to commission oversight. In administering the programs described in Section 2790, the electric and gas corporations, to the extent practical, shall do all of the following:

(1) Continue to leverage funds collected to fund the program described in subdivision (a) with funds available from state and federal sources.

(2) Work with state and local agencies, community-based organizations, and other entities to ensure efficient and effective delivery of programs.

(3) Encourage local employment and job skill development.

(4) Maximize the participation of eligible participants.

(5) Work to reduce consumers electric and gas consumption, and bills.

(b) If the commission requires low-income energy efficiency programs to be subject to competitive bidding, the electric and gas corporation described in subdivision (a), as part of their bid evaluation criteria, shall consider both cost-of-service criteria and quality-of-service criteria. The bidding criteria, at a minimum, shall recognize all of the following factors:

(1) The bidder's experience in delivering programs and services, including, but not limited to, weatherization, appliance repair and maintenance, energy education, outreach and enrollment services, and bill payment assistance programs to targeted communities.

(2) The bidder's knowledge of the targeted communities.

(3) The bidder's ability to reach targeted communities.

(4) The bidder's ability to utilize and employ people from the local area.

(5) The bidder's general contractor's license and evidence of good standing with the Contractors' State License Board.

(6) The bidder's performance quality as verified by the funding source.

(7) The bidder's financial stability.

(8) The bidder's ability to provide local job training.

(9) Other attributes that benefit local communities.

(c) Notwithstanding subdivision (b), the commission may modify the bid criteria based upon public input from a variety of sources, including representatives from low-income communities and the program administrators identified in subdivision (b), in order to ensure the effective and efficient delivery of high quality low-income energy efficiency programs.

SEC. 2. Section 381.5 is added to the Public Utilities Code, to read:

381.5. It is the intent of the Legislature to protect and strengthen the current network of community service providers by doing the following:

(a) Directing that any evaluation of the effectiveness of the low-income energy efficiency programs shall be based not solely on cost criteria, but also on the degree to which the provision of services allows maximum program accessibility to quality programs to low-income communities by entities that have demonstrated performance in effectively delivering services to the communities.

(b) Ensuring that high quality, low-income energy efficiency programs are delivered to the maximum number of eligible participants at a reasonable cost.

SEC. 3. Section 2790 of the Public Utilities Code is amended to read:

2790. (a) The commission shall require an electrical or gas corporation to perform home weatherization services for low-income customers, as determined by the commission under Section 739, if the commission determines that a significant need for those services exists in the corporation's service territory, taking into consideration both the cost effectiveness of the services and the policy of reducing the hardships facing low-income households.

(b) (1) For purposes of this section, "weatherization" may include, where feasible, any of the following measures for any dwelling unit:

(A) Attic insulation.

(B) Caulking.

(C) Weatherstripping.

(D) Low flow showerhead.

(E) Waterheater blanket.

(F) Door and building envelope repairs that reduce air infiltration.

(2) The commission shall direct any electrical or gas corporation to provide as many of these measures as are feasible for each eligible low-income dwelling unit.

(c) "Weatherization" may also include other building conservation measures, energy-efficient appliances, and energy education programs determined by the commission to be feasible, taking into consideration for all measures both the cost effectiveness of the measures as a whole and the policy of reducing energy-related hardships facing low-income households.

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.

CHAPTER 701

An act to amend Section 14085.5 of the Welfare and Institutions Code, relating to health.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 14085.5 of the Welfare and Institutions Code is amended to read:

14085.5. (a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal medicaid requirements regarding disproportionate hospitals for the three most recent years prior to submitting final plans for an eligible project in accordance with subparagraph (C) of paragraph (1) of subdivision (b), may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after September 1, 1988, and prior to June 30, 1994, except that projects submitted between September 1, 1988, and June 30, 1989, shall be eligible only if the submitting hospital had all of the following additional characteristics during the 1989 calendar year:

(i) No less than 400 general acute care licensed beds.

(ii) An average Medi-Cal patient census of not less than 30 percent of the total patient days.

(iii) No less than 50,000 emergency department visits.

(iv) An existing basic emergency department, obstetrical services, and a neonatal intensive care unit.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(2) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) (A) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(B) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety, seismic, or other related regulatory standards.

(4) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(5) (A) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(B) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) (A) The department shall use the medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(B) (i) Notwithstanding any other provision of law, in determining the hospital's medicaid inpatient utilization rate for the purposes of this section, the department shall include in both the numerator and denominator all Medi-Cal inpatient days of care provided by the hospital after December 31, 1994, to Medi-Cal beneficiaries who are enrolled in prepaid health plans contracting with the department. Where reliable data regarding those days are

available from Medi-Cal prepaid health plans contracting with participating hospitals for services rendered prior to January 1, 1995, that data may be used by the department in the calculations.

(ii) For purposes of this section, Medi-Cal prepaid health plan programs, and the days relating thereto, shall include, but not be limited to, the programs listed in paragraph (1) of subdivision (b) of Section 14105.985, Section 14089, and any prepaid programs implemented under Section 14087.3, including the two-plan model described in the report issued on March 31, 1993, by the department, entitled "The State Department of Health Services' Plan for Expanding Medi-Cal Managed Care: Protecting Vulnerable Populations."

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superseded by other arrangements for payment of inpatient hospital services, the successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and, if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are allowable under federal law.

(4) (A) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(B) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program, in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual basis, if the contracting program were not implemented.

(i) (1) Subject to paragraph (2), any hospital that met the criteria specified in subdivision (a) at the time it submitted its final plans for an eligible project in accordance with subparagraph (C) of paragraph (1) of subdivision (b) shall continue to receive reimbursement as set forth in this section irrespective of whether or

not the hospital qualifies as a disproportionate share hospital after submission of its final plans.

(2) A hospital that fails to meet the criteria for disproportionate share status on or before June 30, 2002, shall be required to submit data to the department that demonstrates that the hospital failed to meet the criteria for a disproportionate share hospital because its low-income utilization rate, as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), does not exceed 25 percent due to one or more of the following factors:

(A) An increase in outpatient utilization.

(B) A decrease in the average length of stay for Medi-Cal beneficiaries or charity care patients due to technological advances in the provision of care.

(C) Increased implementation within the state of Medi-Cal prepaid health plan programs.

(D) The level of reimbursement that the hospital receives for outpatient visits.

(E) Other circumstances beyond the hospital's control that affect the hospital's ability to meet the criteria for disproportionate status, even though the hospital continues to have a mission to provide care to Medi-Cal and charity care patients.

CHAPTER 702

An act to amend Section 13500 of the Penal Code, relating to law enforcement.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 13500 of the Penal Code is amended to read:

13500. There is in the Department of Justice a Commission on Peace Officer Standards and Training, hereafter referred to in this chapter as the commission. The commission consists of 14 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate. Racial, gender, and ethnic diversity shall be considered for all appointments to the commission.

The commission shall be composed of the following members:

(1) Two members shall be (i) sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police, (ii) peace officers who are deputy sheriffs or city policemen, or (iii) any combination thereof.

(2) Three members shall be sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police.

(3) Four members shall be peace officers of the rank of sergeant or below with a minimum of five years' experience as a deputy sheriff, city police officer, marshal, or state-employed peace officer for whom the commission sets standards. These members shall have demonstrated leadership in their local or state peace officer association or union.

(4) One member shall be an elected officer or chief administrative officer of a county in this state.

(5) One member shall be an elected officer or chief administrative officer of a city in this state.

(6) Two members shall be public members who shall not be peace officers.

(7) One member shall be an educator or trainer in the field of criminal justice.

The Attorney General shall be an ex officio member of the commission.

Of the members first appointed by the Governor, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. 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.

The additional member provided for by the Legislature in its 1973–74 Regular Session shall be appointed by the Governor on or before January 15, 1975, and shall serve for a term of three years.

The additional member provided for by the Legislature in its 1977–78 Regular Session shall be appointed by the Governor on or after July 1, 1978, and shall serve for a term of three years.

The additional members provided for by the Legislature in its 1999–2000 Regular Session shall be appointed by the Governor on or before July 1, 2000, and shall serve for a term of three years.

CHAPTER 703

An act to amend Section 1270.1 of, and to add Section 646.93 to, the Penal Code, relating to stalking.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The Legislature finds that in 1996, nearly 2,000 murders in the United States were committed by intimates, and in almost three out of four of these killings, the victim was a woman. The

Legislature also finds that each year, approximately 30 percent of all women killed in this country die at the hands of a current or former intimate, that stalkers are estimated to be violent toward their victims between 25 and 35 percent of the time, and that the group most likely to be violent is composed of those persons who have had an intimate relationship with the victim. The Legislature also finds that, according to a National Violence Against Women survey conducted by the federal Department of Justice, 8 percent of women and 2 percent of men in the United States have been stalked at some time in their life, that 12.1 million women and 3.7 million men in the United States are stalked at some time during their life, and that 6 million women and 1.4 million men are stalked annually in the United States. The Legislature also finds that 81 percent of the women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by that same partner, and 31 percent of the women who were stalked by a current or former husband or cohabiting partner were also sexually assaulted by that same partner.

(b) The Legislature further finds that it is necessary that a judge or magistrate be fully informed of all aspects of the charged crimes and any and all possible relevant background information about the defendant, including prior violent acts, the threat of prior violent acts, possession of dangerous and deadly weapons, prior arrests and convictions, violations of law, jail incident reports, and the existence of any other relevant information and, in particular, information that may bear on the danger the defendant may present to the public and the likelihood that defendant may commit future crimes if released pending trial.

(c) The Legislature further finds that it is necessary for both the victim or victims to have the opportunity to be heard regarding the setting of bail in order to bring relevant information to the court's attention.

SEC. 2. Section 1270.1 of the Penal Code is amended to read:

1270.1. (a) Before any person who is arrested for any of the following crimes may be released on bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, or may be released on his or her own recognizance, a hearing shall be held in open court before the magistrate or judge:

(1) A serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, but not including a violation of subdivision (a) of Section 460 (residential burglary).

(2) A violation of Section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1, 262, 273.5, 422 where the offense is punished as a felony, or 646.9.

(3) A violation of paragraph (1) of subdivision (e) of Section 243.

(b) The prosecuting attorney and defense attorney shall be given a two court-day written notice and an opportunity to be heard on the matter. If the detained person does not have counsel, the court shall

appoint counsel for purposes of this section only. The hearing required by this section shall be held within the time period prescribed in Section 825.

(c) At the hearing, the court shall consider evidence of past court appearances of the detained person, the maximum potential sentence that could be imposed, and the danger that may be posed to other persons if the detained person is released. In making the determination whether to release the detained person on his or her own recognizance, the court shall consider the potential danger to other persons, including threats that have been made by the detained person and any past acts of violence. The court shall also consider any evidence offered by the detained person regarding his or her ties to the community and his or her ability to post bond.

(d) If the judge or magistrate sets the bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, the judge or magistrate shall state the reasons for that decision and shall address the issue of threats made against the victim or witness, if they were made, in the record. This statement shall be included in the record.

SEC. 3. Section 646.93 is added to the Penal Code, to read:

646.93. (a) The county sheriff shall give notice of the release on bail of any person arrested for violating Section 646.9. The notice shall be directed to the domestic violence unit of the prosecuting agency of the county or city where the victim resides or any person so designated by that agency. The prosecuting agency in each county or city shall inform the county jail in writing as to the specific person or persons who should be contacted in their agency.

(b) Any request to lower bail shall be heard in open court in accordance with Section 1270.1. In addition, the prosecutor shall make all reasonable efforts to notify the victim or victims of the bail hearing. The victims may be present at the hearing and shall be permitted to address the court on the issue of bail.

(c) Unless good cause is shown not to impose the following conditions, the judge shall impose as additional conditions of release on bail that:

(1) The defendant shall not initiate contact in person, by telephone, or any other means with the alleged victims.

(2) The defendant shall not knowingly go within 100 yards of the alleged victims, their residence, or place of employment.

(3) The defendant shall not possess any firearms or other deadly or dangerous weapons.

(4) The defendant shall obey all laws.

(5) The defendant, upon request at the time of his or her appearance in court, shall provide the court with an address where he or she is residing or will reside, a business address and telephone number if employed, and a residence telephone number if the defendant's residence has a telephone.

A showing by declaration that any of these conditions are violated shall, unless good cause is shown, result in the issuance of a no-bail warrant.

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.

CHAPTER 704

An act to amend Section 44252.5 of, and to add Section 44252.9 to, the Education Code, relating to teacher credentialing.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44252.5 of the Education Code is amended to read:

44252.5. (a) The commission shall administer the state basic skills proficiency test pursuant to Sections 44227, 44252, and 44830 in accordance with rules and regulations adopted by the commission. The adopted rules and regulations shall be promulgated by the commission before January 1, 1983, and shall be exempt from the requirements of Section 44232. A fee shall be charged to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test. The commission shall establish the amount of this fee. However, the fee shall not exceed thirty dollars ($30) in the 1982–83 fiscal year, thirty-five dollars ($35) in the 1983–84 fiscal year, and forty dollars ($40) for the 1984–85 fiscal year to January 1, 2002. Subsequent to January 1, 2002, the amount of the fee shall be established by the commission to recover the cost of examination administration and development pursuant to Section 44235.3.

(b) The commission may enter into agreements with other states permitting the use of the state basic skills proficiency test as a requirement for the issuance of credentials or for teacher preparation program admission in those other states, provided that the use would advance the interests of the State of California and that the other states reimburse the Teacher Credentials Fund for a proportionate share of costs of the development and administration of the test.

(c) Any individual who passes the state basic skills proficiency test, as adopted by the Superintendent of Public Instruction, shall be considered proficient in the skills of reading, writing, and mathematics, and shall not be required to be retested by this test for purposes of meeting the proficiency requirements of Sections 44227, 44252, and 44830.

(d) Any individual who passes one or more components of the state basic skills proficiency test in the subjects of basic reading, writing, or mathematics, shall be deemed to have demonstrated his or her proficiency in these subject areas and shall not be required to be retested in these subjects during subsequent test administrations.

SEC. 2. Section 44252.9 is added to the Education Code, to read:

44252.9. (a) The Legislature finds and declares that the effective education of pupils in kindergarten and grades 1 to 12, inclusive, depends substantially on the academic skills, content competence, and pedagogical preparation of classroom teachers. It is essential that the ongoing administration of the state basic skills proficiency exam for teachers be carried out at all times by a competent contractor who adheres to high standards using sound, effective, and defensible assessment procedures. The administration of this exam is jeopardized by the increasing costs of the exam and statutory restrictions that remain in effect. To preserve and strengthen the screening of teacher candidates in relation to their basic academic skills, the Legislature intends to maintain the state examination that is administered by the commission pursuant to Section 44252.5, and to support needed improvements in exam-related services to teaching credential candidates.

(b) The commission shall make improvements to increase access to the state basic skills proficiency test, and shall improve exam-related services provided to candidates for teaching credentials, which may include, but are not limited to, the following:

(1) Administering the test more frequently.

(2) Increasing the number of testing locations.

(3) Making the exam available year-round by appointment at examination centers that are highly secure and professionally supervised.

(c) The commission shall adopt these improvements in consultation with the Department of Finance and shall report all improvements to the Legislature.

CHAPTER 705

An act to add and repeal Chapter 12.991 (commencing with Section 18986.86) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Chapter 12.991 (commencing with Section 18986.86) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.991. COUNTY INTEGRATED HEALTH AND HUMAN SERVICES PROGRAM

18986.86. (a) Humboldt County, Mendocino County, and Alameda County, with the assistance and participation of the appropriate state departments, within the existing resources of those departments, may implement a program, upon approval of each county board of supervisors for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system.

(b) The program may, in providing services through an integrated system to families and individuals, among other things, do all of the following:

(1) Implement and evaluate a system of universal intake for those seeking services.

(2) Implement and evaluate a system whereby a family or individual eligible for more than one service may be provided those services through an integrated, coordinated service plan.

(3) Implement and evaluate a system of administration that integrates and coordinates the management and support of client services.

(4) Implement and evaluate a system of reporting and accountability that provides for the combined provision of services as provided for in paragraph (2), without the loss of state or federal funds provided under current law.

(5) In consultation with the appropriate state departments, as designated by the Secretary of Health and Human Services, the county or counties may develop specific goals in addition to those specified in paragraphs (1) to (4), inclusive, to achieve an integrated and comprehensive county health and human services system.

(c) The integrated system may include any or all of the following:

(1) Adoption services.

(2) Child abuse prevention services.

(3) Child welfare services.

(4) Delinquency prevention services.

(5) Drug and alcohol services.

(6) Mental health services.

(7) Eligibility determination.

(8) Employment and training services.

(9) Foster care services.
(10) Health services.
(11) Public health services.
(12) Housing services.
(13) Medically indigent program services.

(d) (1) Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code shall apply to the programs or services providing integrated services.

(2) Before a program obtains an individual's medical information, including mental health and drug treatment records, his or her informed authorization shall be obtained, or the informed authorization of his or her custodial parent, or his or her guardian shall be obtained if the individual is a minor, unless the minor is authorized to give consent.

(3) Medical information shall not be disclosed to any individual who is not authorized to have that information pursuant to the authorization provided in paragraph (2).

(4) Medical information shall not be disclosed for any purpose that is not authorized by the authorization in paragraph (2).

(5) The sharing of information permitted under paragraphs (2), (3), and (4) shall be governed by memoranda of understanding among the agencies represented on the team. These memoranda shall specify the types of information that may be shared without a signed release form, and the process to be used to ensure that current confidentiality requirements, as described in subdivision (d), are met.

(6) Any client shall have access to his or her medical information and shall have the right to correct any inaccurate information contained in the medical information.

(e) Programs or services shall be included in the program only to the extent that federal funding to either the state or the county will not be reduced as a result of the inclusion of the services in the project. This program shall not generate any increased expenditures from the General Fund.

(f) Each participating county and the appropriate state departments shall jointly seek federal approval of the program, as may be needed to ensure its funding and allow for the integrated provision of services.

(g) This chapter shall not authorize each participating county to discontinue meeting its obligations under current law to provide services or to reduce its accountability for the provision of these services.

(h) This chapter shall not authorize each participating county to reduce each participating county's eligibility under current law for state funding for the services included in the program.

(i) Each participating county shall utilize any and all state general and county funds that it is legally allocated or entitled to receive.

Through the creation of integrated health and social services structures, the county shall maximize federal matching funds.

(j) The Secretary of Health and Human Services shall designate a lead department to coordinate the state's participation in the county's program.

(k) The appropriate state departments, as designated by the Secretary of Health and Human Services, that are assisting, participating, and cooperating in the implementation of the program authorized by this chapter shall have the authority to waive regulations regarding the method of providing services and the method of reporting and accountability, as may be required to meet the goals set forth in subdivision (b). However, the departments shall not waive regulations pertaining to privacy and confidentiality of records, civil service merit systems, or collective bargaining. The departments shall not waive regulations if the waiver results in a diminished amount or level of services or benefits to eligible recipients as compared to the benefits and services that would have been provided to recipients absent the waiver.

18986.87. (a) Each participating county shall, in consultation with the appropriate state departments, as designated by the Secretary of Health and Human Services, develop outcomes and performance measures specific to the project prior to the implementation of the pilot program. Implementation of a pilot program pursuant to this section shall occur not later than July 1, 2000.

(b) Each participating county shall evaluate the program with the participation of the appropriate state departments, as designated by the Secretary of Health and Human Services, and prepare interim and final evaluations and submit them to the Governor or the Governor's designee and the appropriate policy committees of the Legislature. The interim report shall be submitted not later than six months following the third year of the implementation of the program. The final report shall be submitted not later than January 1, 2004.

(c) Each participating county shall provide for the evaluation of the program.

18986.88. This chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 706

An act to amend Sections 25189.5, 25189.6, and 25189.7 of the Health and Safety Code, to amend Sections 237, 289, 666.5, 666.7, 667.70, 803, 1170.11, 1192.8, and 1203.049 of, and to repeal Section 667.72 of, the Penal Code, and to amend Sections 23550.5 and 23558 of the Vehicle

Code, relating to maintenance of criminal provisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25189.5 of the Health and Safety Code is amended to read:

25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly disposing or causing the disposal of any hazardous waste, or who reasonably should have known that he or she was disposing or causing the disposal of any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(c) Any person who knowingly transports or causes the transportation of hazardous waste, or who reasonably should have known that he or she was causing the transportation of any hazardous waste, to a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(e) The court also shall impose upon a person convicted of violating subdivision (b), (c), or (d), a fine of not less than five thousand dollars ($5,000) nor more than one hundred thousand dollars ($100,000) for each day of violation, except as further provided in this subdivision. If the act which violated subdivision (b), (c), or (d) caused great bodily injury, or caused a substantial probability that death could result, the person convicted of violating subdivision (b), (c), or (d) may be punished by imprisonment in the state prison for one, two, or three years, in addition and consecutive to the term specified in subdivision (b), (c), or (d), and may be fined up to two hundred fifty thousand dollars ($250,000) for each day of violation.

(f) For purposes of this section, except as otherwise provided in this subdivision, "each day of violation" means each day on which a violation continues. In any case where a person has disposed or caused the disposal of any hazardous waste in violation of this section, each day that the waste remains disposed of in violation of this section and the person has knowledge thereof is a separate additional violation, unless the person has filed a report of the disposal with the department and is complying with any order concerning the disposal issued by the department, a hearing officer, or court of competent jurisdiction.

SEC. 2. Section 25189.6 of the Health and Safety Code is amended to read:

25189.6. (a) Any person who knowingly, or with reckless disregard for the risk, treats, handles, transports, disposes, or stores any hazardous waste in a manner which causes any unreasonable risk of fire, explosion, serious injury, or death is guilty of a public offense and shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) nor more than two hundred fifty thousand dollars ($250,000) for each day of violation, or by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison, or by both the fine and imprisonment.

(b) Any person who knowingly, at the time the person takes the actions specified in subdivision (a), places another person in imminent danger of death or serious bodily injury, is guilty of a public offense and shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) nor more than two hundred fifty thousand dollars ($250,000) for each day of violation, and by imprisonment in the state prison for 3, 6, or 9 years.

SEC. 3. Section 25189.7 of the Health and Safety Code is amended to read:

25189.7. (a) The burning or incineration of any hazardous waste, or the causing thereof, is prohibited when the burning or incineration is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly burning or incinerating, or causing the burning or incineration of, any hazardous waste, or who reasonably should have known that he or she was burning or incinerating, or causing the burning or incineration of, any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(c) The court also shall impose upon a person convicted of violating subdivision (b) a fine of not less than five thousand dollars ($5,000) nor more than one hundred thousand dollars ($100,000) for each day of violation, except as otherwise provided in this

subdivision. If the act which violated subdivision (b) caused great bodily injury or caused a substantial probability that death could result, the person convicted of violating subdivision (b) may be punished by imprisonment in the state prison for one, two, or three years, in addition and consecutive to the term specified in subdivision (b), and may be fined up to two hundred fifty thousand dollars ($250,000) for each day of violation.

SEC. 4. Section 237 of the Penal Code is amended to read:

237. (a) False imprisonment is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment in the state prison.

(b) False imprisonment of an elder or dependent adult by use of violence, menace, fraud, or deceit shall be punishable as described in subdivision (f) of Section 368.

SEC. 5. Section 289 of the Penal Code is amended to read:

289. (a) (1) Any person who commits an act of sexual penetration when 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 shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant

and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal openings of any person or causing another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(*l*) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal openings of the defendant or another person or whose genital or anal openings are caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

SEC. 6. Section 666.5 of the Penal Code is amended to read:

666.5. (a) Every person who, having been previously convicted of a felony violation of Section 10851 of the Vehicle Code, or felony grand theft involving an automobile in violation of subdivision (d) of Section 487 or former subdivision (3) of Section 487, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or felony grand theft involving a motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code in violation of former Section 487h, or a felony violation of Section 496d regardless of whether or not the person actually served a prior prison term for those offenses, is subsequently convicted of any of these offenses shall

be punished by imprisonment in the state prison for two, three, or four years, or a fine of ten thousand dollars ($10,000), or both the fine and the imprisonment.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 7. Section 666.7 of the Penal Code is amended to read:

666.7. It is the intent of the Legislature that this section serve merely as a nonsubstantive comparative reference of current sentence enhancement provisions. Nothing in this section shall have any substantive effect on the application of any sentence enhancement contained in any provision of law, including, but not limited to, all of the following: omission of any sentence enhancement provision, inclusion of any obsolete sentence enhancement provision, or inaccurate reference or summary of a sentence enhancement provision.

It is the intent of the Legislature to amend this section as necessary to accurately reflect current sentence enhancement provisions, including the addition of new provisions and the deletion of obsolete provisions.

For the purposes of this section, the term "sentence enhancement" means an additional term of imprisonment in the state prison added to the base term for the underlying offense. A sentence enhancement is imposed because of the nature of the offense at the time the offense was committed or because the defendant suffered a qualifying prior conviction before committing the current offense.

(a) The provisions listed in this subdivision imposing a sentence enhancement of one year imprisonment in the state prison may be referenced as Schedule A.

(1) Money laundering when the value of transactions exceeds fifty thousand dollars ($50,000), but is less than one hundred fifty thousand dollars ($150,000) (subpara. (A), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than one hundred thousand dollars ($100,000) (para. (3), subd. (a), Sec. 186.11, Pen. C.).

(3) Felony conviction of willful harm or injury to a child, involving female genital mutilation (Sec. 273.4, Pen. C.).

(4) Prior conviction of felony hate crime with a current conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

(5) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties and, with the intent to so harm, obstruct, or interfere, personally causing the death, destruction, or serious physical injury of any horse or dog (subd. (c), Sec. 600, Pen. C.).

(6) Prior prison term with current felony conviction (subd. (b), Sec. 667.5, Pen. C.).

(7) Commission of any specified offense against a person who is 65 years of age or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

(8) Showing child pornography to a minor prior to or during the commission or attempted commission of any lewd or lascivious act with the minor (subd. (a), Sec. 667.15, Pen. C.).

(9) Felony conviction of forgery, grand theft, or false pretenses as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by a natural disaster (Sec. 667.16, Pen. C.).

(10) Impersonating a peace officer during the commission of a felony (Sec. 667.17, Pen. C.).

(11) Felony conviction of any specified offense, including, but not limited to, forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by natural disaster with prior felony conviction of any of those offenses (Sec. 670, Pen. C.).

(12) Commission or attempted commission of a felony while armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

(13) Personally using a deadly or dangerous weapon in the commission or attempted commission of a felony (para. (1), subd. (b), Sec. 12022, Pen. C.).

(14) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds fifty thousand dollars ($50,000) (para. (1), subd. (a), Sec. 12022.6, Pen. C.).

(15) Transferring, lending, selling, or giving any assault weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

(16) Manufacturing, causing to be manufactured, distributing, transporting, importing, keeping for sale, offering or exposing for sale, giving, or lending any assault weapon while committing another crime (subd. (c), Sec. 12280, Pen. C.).

(17) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11353.1, H.& S.C.).

(18) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five hundred thousand dollars ($500,000) (para. (1), subd. (a), Sec. 11356.5, H.& S.C.).

(19) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the offense causes the death or great bodily injury of another person other than an accomplice (Sec. 11379.9, H.& S.C.).

(20) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, when the commission of the offense occurs upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

(21) Possessing for sale, or selling, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP), when the commission of the offense occurs upon the grounds of a public park, public library, or oceanfront beach (para. (1), subd. (a), Sec. 11380.5, H.& S.C.).

(22) Causing bodily injury or death to more than one victim in any one instance of driving under the influence of any alcoholic beverage or drug (Sec. 23558, Veh. C.).

(23) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding fifty thousand dollars ($50,000), but less than one hundred fifty thousand dollars ($150,000) (subpara. (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(b) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or three years' imprisonment in the state prison may be referenced as Schedule B.

(1) Commission of a felony for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Commission or attempted commission of a felony hate crime (subd. (a), Sec. 422.75, Pen. C.).

(3) Commission or attempted commission of a felony against the property of a public or private institution because the property is

associated with a person or group of identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

(4) Felony conviction of unlawfully causing a fire of any structure, forest land, or property when the defendant has been previously convicted of arson or unlawfully causing a fire, or when a firefighter, peace officer, or emergency personnel suffered great bodily injury, or when the defendant proximately caused great bodily injury to more than one victim, or caused multiple structures to burn (Sec. 452.1, Pen. C.).

(5) Carrying a loaded or unloaded firearm during the commission or attempted commission of any felony street gang crime (subd. (a), Sec. 12021.5, Pen. C.).

(6) Personally using a deadly or dangerous weapon in the commission of carjacking or attempted carjacking (para. (2), subd. (b), Sec. 12022, Pen. C.).

(7) Being a principal in the commission or attempted commission of any specified drug offense, knowing that another principal is personally armed with a firearm (subd. (d), Sec. 12022, Pen. C.).

(8) Furnishing or offering to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony (Sec. 12022.4, Pen. C.).

(9) Selling, supplying, delivering, or giving possession or control of a firearm to any person within a prohibited class or to a minor when the firearm is used in the subsequent commission of a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).

(10) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, heroin, cocaine, and cocaine base, or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11353.1, H.& S.C.).

(11) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor that resulted in a prison sentence with a current conviction of the same offense (subd. (a), Sec. 11353.4, H.& S.C.).

(12) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor with a current conviction of the same offense involving a minor who is 14 years of age or younger (subd. (b), Sec. 11353.4, H.& S.C.).

(13) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, phencyclidine (PCP), methamphetamine, and lysergic acid diethylamide (LSD), or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1, H.& S.C.).

(14) Causing great bodily injury or a substantial probability that death could result by the knowing disposal, transport, treatment, storage, burning, or incineration of any hazardous waste at a facility without permits or at an unauthorized point (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

(c) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or five years' imprisonment in the state prison may be referenced as Schedule C.

(1) Wearing a bullet-resistant body vest in the commission or attempted commission of a violent offense (subd. (b), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while armed with a firearm or deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).

(d) The provisions listed in this subdivision imposing a sentence enhancement of two years' imprisonment in the state prison may be referenced as Schedule D.

(1) Money laundering when the value of the transactions exceeds one hundred fifty thousand dollars ($150,000), but is less than one million dollars ($1,000,000) (subpara. (B), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than one hundred fifty thousand dollars ($150,000) (para. (3), subd. (a), Sec. 186.11, Pen. C.).

(3) Conviction of any specified felony sex offense that is committed after fleeing to this state under specified circumstances (subd. (d), Sec. 289.5, Pen. C.).

(4) Prior conviction of any specified insurance fraud offense with current conviction of willfully injuring, destroying, secreting, abandoning, or disposing of any property insured against loss or damage by theft, embezzlement, or any casualty with the intent to defraud or prejudice the insurer (subd. (b), Sec. 548, Pen. C.).

(5) Prior conviction of any specified insurance fraud offense with current conviction of knowingly presenting any false or fraudulent insurance claim or multiple claims for the same loss or injury, or knowingly causing or participating in a vehicular collision for the purpose of presenting any false or fraudulent claim, or providing false or misleading information or concealing information for purpose of insurance fraud (subd. (e), Sec. 550, Pen. C.).

(6) Causing serious bodily injury as a result of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim (subd. (g), Sec. 550, Pen. C.).

(7) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties and, with the intent to cause great bodily

injury, personally causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 600, Pen. C.).

(8) Prior conviction of any specified offense with current conviction of any of those offenses committed against a person who is 65 years of age or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).

(9) Prior conviction for penetration of genital or anal openings by foreign or unknown object with current conviction of the same offense committed against a person who is 65 years of age or older, blind, deaf, developmentally disabled, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.10, Pen. C.).

(10) Showing child pornography to minor prior to or during the commission or attempted commission of continuous sexual abuse of the minor (subd. (b), Sec. 667.15, Pen. C.).

(11) Primary care provider in a day care facility committing any specified felony sex offense against a minor entrusted to his or her care (subd. (a), Sec. 674, Pen. C.).

(12) Commission of a felony offense while released from custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen. C.).

(13) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds one hundred fifty thousand dollars ($150,000) (para. (2), subd. (a), Sec. 12022.6, Pen. C.).

(14) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11353.1, H.& S.C.).

(15) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds two million dollars ($2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present (subd. (a), Sec. 11379.7, H.& S.C.).

(17) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

(18) Prior felony conviction of any specified insurance fraud offense with a current conviction of making false or fraudulent statements concerning a workers' compensation claim (subd. (c), Sec. 1871.4, Ins. C.).

(19) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).

(20) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance issued or administered by the State Compensation Insurance Fund for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

(21) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one hundred fifty thousand dollars ($150,000), but less than one million dollars ($1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(e) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or four years' imprisonment in the state prison may be referenced as Schedule E.

(1) Commission of a felony for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and on the grounds of, or within 1,000 feet of, a school during school hours or when minors are using the facility (para. (2), subd. (b), Sec. 186.22, Pen. C.).

(2) Acting in concert with another person or aiding or abetting another person in committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device during the commission or attempted commission of any felony street gang crime (subd. (b), Sec. 12021.5, Pen. C.).

(f) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or five years' imprisonment in the state prison may be referenced as Schedule F.

(1) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern

of related felony conduct, involving the taking of more than five hundred thousand dollars ($500,000) (para. (2), subd. (a), Sec. 186.11, Pen. C.).

(g) The provisions listed in this subdivision imposing a sentence enhancement of three years' imprisonment in the state prison may be referenced as Schedule G.

(1) Money laundering when the value of transactions exceeds one million dollars ($1,000,000), but is less than two million five hundred thousand dollars ($2,500,000) (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of a felony for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, if also convicted of a felony violation of witness or victim intimidation involving a credible threat of violence or death made to the witness or victim of a violent felony for the purpose of preventing or dissuading the witness or victim from attending or giving testimony at any trial for a violent felony (para. (5), subd. (b), Sec. 186.22, Pen. C.).

(3) Willfully mingling any poison or harmful substance which may cause death if ingested, or which causes the infliction of great bodily injury on any person, with any food, drink, medicine, or pharmaceutical product or willfully placing such poison or harmful substance in any spring, well, reservoir, or public water supply (subd. (a), Sec. 347, Pen. C.).

(4) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (2), subd. (b), Sec. 368, Pen. C.).

(5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws and causing bodily injury to another person other than an accomplice (subd. (b), Sec. 593a, Pen. C.).

(6) Prior prison term for violent felony with current violent felony conviction (subd. (a), Sec. 667.5, Pen. C.).

(7) Commission of any specified felony sex offense by a primary care provider in a day care facility against a minor entrusted to his or her care while voluntarily acting in concert with another (subd. (b), Sec. 674, Pen. C.).

(8) Commission or attempted commission of a felony while armed with an assault weapon or a machinegun (para. (2), subd. (a), Sec. 12022, Pen. C.).

(9) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds one

million dollars ($1,000,000) (para. (3), subd. (a), Sec. 12022.6, Pen. C.).

(10) Personally inflicting great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

(11) Administering by injection, inhalation, ingestion, or any other means, any specified controlled substance against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person for the purpose of committing a felony (Sec. 12022.75, Pen. C.).

(12) Commission of any specified sex offense with knowledge that the defendant has acquired immune deficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of the offense (Sec. 12022.85, Pen. C.).

(13) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five million dollars ($5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

(14) Prior conviction of any specified drug offense with current conviction of any specified drug offense (subds. (a), (b), and (c), Sec. 11370.2, H.& S.C.).

(15) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds one kilogram or 30 liters (para. (1), subd. (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds three gallons or one pound (para. (1), subd. (a), Sec. 11379.8, H.& S.C.).

(17) Four or more prior convictions of specified alcohol-related vehicle offenses with current conviction of driving under the influence and causing great bodily injury (subd. (c), Sec. 23190, Veh. C.).

(18) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one million dollars ($1,000,000), but less than two million five hundred thousand dollars ($2,500,000) (subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(h) The provisions listed in this subdivision imposing a sentence enhancement of three, four, or five years' imprisonment in the state prison may be referenced as Schedule H.

(1) Commission of felony arson with prior conviction of arson or unlawfully starting a fire, or causing great bodily injury to a firefighter, peace officer, other emergency personnel, or multiple victims, or causing the burning of multiple structures, or using an accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen. C.).

(2) Commission or attempted commission of any specified drug offense while personally armed with a firearm (subd. (c), Sec. 12022, Pen. C.).

(3) Personally inflicting great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony (subd. (d), Sec. 12022.7, Pen. C.).

(4) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to commit any of those offenses, upon the grounds of, or within 1,000 feet of, a school during school hours or when minors are using the facility (subd. (b), Sec. 11353.6, H.& S.C.).

(5) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to violate any of those offenses, involving a minor who is at least four years younger than the defendant (subd. (c), Sec. 11353.6, H.& S.C.).

(i) The provisions listed in this subdivision imposing a sentence enhancement of 3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule I.

(1) Commission or attempted commission of any felony while armed with a firearm and in the immediate possession of ammunition for the firearm designed primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).

(4) Commission or attempted commission of any specified drug offense while personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).

(j) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule J.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars ($2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition with current conviction of that offense (subd. (b), Sec. 273d, Pen. C.).

(3) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds two million five hundred thousand dollars ($2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).

(4) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle and causing a victim to suffer paralysis or paraparesis of a major body part (para. (1), subd. (b), Sec. 12022.9, Pen. C.).

(5) Personally, willfully, and maliciously discharging a firearm from a motor vehicle at another occupied motor vehicle and causing a victim to suffer paralysis or paraparesis of a major body part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).

(6) Willfully causing or permitting any child to suffer, or inflicting on the child unjustifiable physical pain or injury that results in death under circumstances or conditions likely to produce great bodily harm or death, or, having the care or custody of any child, willfully causing or permitting that child to be injured or harmed under circumstances likely to produce great bodily harm or death, when that injury or harm results in death (Sec. 12022.95, Pen. C.).

(7) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding two million five hundred thousand dollars ($2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(k) The provisions listed in this subdivision imposing a sentence enhancement of 4, 5, or 10 years' imprisonment in the state prison may be referenced as Schedule K.

(1) Commission or attempted commission of a felony while personally using a firearm with prior conviction of carjacking or attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

(*l*) The provisions listed in this subdivision imposing a sentence enhancement of five years' imprisonment in the state prison may be referenced as Schedule L.

(1) Using sex offender registration information to commit a felony (subd. (q), Sec. 290, and para. (1), subd. (b), Sec. 290.4, Pen. C.).

(2) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is 70 years of age or older (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

(3) Causing death by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the

victim is under 70 years of age (subpara. (A), para. (3), subd. (b), Sec. 368, Pen. C.).

(4) Two prior felony convictions of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim with current conviction of the same (subd. (f), Sec. 550, Pen. C.).

(5) Prior conviction of a serious felony with current conviction of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

(6) Prior conviction of any specified sex offense with current conviction of lewd and lascivious acts with a child under 14 years of age (subd. (a), Sec. 667.51, Pen. C.).

(7) Prior conviction of any specified sex offense with current conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen. C.).

(8) Kidnapping or carrying away any child under 14 years of age with the intent to permanently deprive the parent or legal guardian custody of that child (Sec. 667.85, Pen. C.).

(9) Personally inflicting great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony that causes the victim to become comatose due to a brain injury or to suffer paralysis of a permanent nature (subd. (b), Sec. 12022.7, Pen. C.).

(10) Personally inflicting great bodily injury on another person who is 70 years of age or older other than an accomplice in the commission or attempted commission of a felony (subd. (c), Sec. 12022.7, Pen. C.).

(11) Inflicting great bodily injury on any victim in the commission or attempted commission of any specified sex offense (Sec. 12022.8, Pen. C.).

(12) Personally and intentionally inflicting injury upon a pregnant woman during the commission or attempted commission of a felony that results in the termination of the pregnancy when the defendant knew or reasonably should have known that the victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).

(13) Using information disclosed to the licensee of a community care facility by a prospective client regarding his or her status as a sex offender to commit a felony (subd. (c), Sec. 1522.01, H.& S.C.).

(14) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 4 kilograms or 100 liters (para. (2), subd. (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

(15) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission of the crime causes any child under 16 years of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 10 gallons or three pounds (para. (2), subd. (a), Sec. 11379.8, H.& S.C.).

(17) Fleeing the scene of the crime after commission of vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

(m) The provisions listed in this subdivision imposing a sentence enhancement of 5, 6, or 10 years' imprisonment in the state prison may be referenced as Schedule M.

(1) Discharging a firearm at an occupied motor vehicle in the commission or attempted commission of a felony which caused great bodily injury or death to another person (para. (1), subd. (b), Sec. 12022.5, Pen. C.).

(2) Commission or attempted commission of a felony while personally using an assault weapon or a machinegun (para. (2), subd. (b), Sec. 12022.5, Pen. C.).

(3) Discharging a firearm from a motor vehicle in the commission or attempted commission of a felony with the intent to inflict great bodily injury or death and causing great bodily injury or death (Sec. 12022.55, Pen. C.).

(n) The provisions listed in this subdivision imposing a sentence enhancement of seven years' imprisonment in the state prison may be referenced as Schedule N.

(1) Causing death by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is 70 years of age or older (subpara. (B), para. (3), subd. (b), Sec. 368, Pen. C.).

(o) The provisions listed in this subdivision imposing a sentence enhancement of nine years' imprisonment in the state prison may be referenced as Schedule O.

(1) Kidnapping victim for purpose of committing any specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

(p) The provisions listed in this subdivision imposing a sentence enhancement of 10 years' imprisonment in the state prison may be referenced as Schedule P.

(1) Two or more prior prison terms for any specified sex offense with current conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).

(2) Commission or attempted commission of any specified felony offense while personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).

(3) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when

the substance exceeds 10 kilograms or 200 liters (para. (3), subd. (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

(4) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd. (a), Sec. 11379.8, H.& S.C.).

(q) The provisions listed in this subdivision imposing a sentence enhancement of 15 years' imprisonment in the state prison may be referenced as Schedule Q.

(1) Kidnapping victim under 14 years of age for purpose of committing any specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

(3) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 105 gallons or 44 pounds (para. (4), subd. (a), Sec. 11379.8, H.& S.C.).

(r) The provisions listed in this subdivision imposing a sentence enhancement of 20 years' imprisonment in the state prison may be referenced as Schedule R.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense (subd. (c), Sec. 12022.53, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4, H.& S.C.).

(s) The provisions listed in this subdivision imposing a sentence enhancement of 25 years' imprisonment in the state prison may be referenced as Schedule S.

(1) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4, H.& S.C.).

(t) The provisions listed in this subdivision imposing a sentence enhancement of 25 years to life imprisonment in the state prison may be referenced as Schedule T.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense

and proximately causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

SEC. 8. Section 667.70 of the Penal Code is amended to read:

667.70. Any person who is convicted of murder, which was committed prior to June 3, 1998, and sentenced pursuant to paragraph (1) of subdivision (a) of Section 667.7, shall be eligible only for credit pursuant to subdivisions (a), (b), and (c) of Section 2931.

SEC. 9. Section 667.72 of the Penal Code is repealed.

SEC. 10. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(11) A violation of subdivision (d) or (e) of Section 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under

Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a "responsible adult" or "agency" means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is or was filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding

whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that clearly and convincingly corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1994, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, by any trial court or any intermediate appellate court, shall not be binding upon refiling.

SEC. 10.5. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(11) A violation of subdivision (d) or (e) of Section 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386, or offenses under Chapter 5 (commencing with Section 2000) of Division 2 of, Chapter 9 (commencing with Section 4000) of Division 2 of, Chapter 10 (commencing with Section 7301) of Division 3 of, or Chapter 19.5 (commencing with Section 22440) of Division 8 of, the Business and Professions Code.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a "responsible adult" or "agency" means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is or was filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint

or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that clearly and convincingly corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1994, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180

days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, by any trial court or any intermediate appellate court, shall not be binding upon refiling.

SEC. 11. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term "specific enhancement" includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85,

12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Section 10980 of the Welfare and Institutions Code.

SEC. 11.5. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term "specific enhancement" includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Section 10980 of the Welfare and Institutions Code.

SEC. 12. Section 1192.8 of the Penal Code is amended to read:

1192.8. (a) For purposes of subdivision (c) of Section 1192.7, "serious felony" also means any violation of Section 191.5, paragraph (1) or (3) of subdivision (c) of Section 192, paragraph (a) or (c) of Section 192.5 of this code, or Section 2800.3, subdivision (b) of Section 23104, or Section 23153 of the Vehicle Code, when any of these offenses involve the personal infliction of great bodily injury on any person other than an accomplice, or the personal use of a dangerous or deadly weapon, within the meaning of paragraph (8) or (23) of subdivision (c) of Section 1192.7.

(b) It is the intent of the Legislature, in enacting subdivision (a), to codify the court decisions of People v. Gonzales, 29 Cal. App. 4th 1684, and People v. Bow, 13 Cal. App. 4th 1551, and to clarify that the crimes specified in subdivision (a) have always been, and continue to be, serious felonies within the meaning of subdivision (c) of Section 1192.7.

SEC. 13. Section 1203.049 of the Penal Code is amended to read:

1203.049. (a) Except in unusual cases where the interest of justice would best be served if the person is granted probation, probation shall not be granted to any person who violates subdivision (f) or (g) of Section 10980 of the Welfare and Institutions Code, when the violation has been committed by means of the electronic transfer of food stamp benefits, and the amount of the electronically transferred food stamp benefits exceeds one hundred thousand dollars ($100,000).

(b) The fact that the violation was committed by means of an electronic transfer of food stamp benefits and the amount of the electronically transferred food stamp benefits exceeds one hundred thousand dollars ($100,000) 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 a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(c) If probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition of the case.

SEC. 14. Section 23550.5 of the Vehicle Code is amended to read:

23550.5. (a) A person is guilty of a public offense, punishable by imprisonment in the state prison or in a county jail for not more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000) 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 23550 or this section, or both, or under former Section 23175 or former Section 23175.5, 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, 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. 15. Section 23558 of the Vehicle Code is amended to read:

23558. Any person who proximately causes bodily injury or death to more than one victim in any one instance of driving in violation of Section 23153 of this code or in violation of Section 191.5 of, or paragraph (3) of subdivision (c) of Section 192 of, the Penal Code, shall, upon a felony conviction, and notwithstanding subdivision (g) of Section 1170.1 of the Penal Code, receive an enhancement of one year in the state prison for each additional injured victim. The enhanced sentence provided for in this section shall not be imposed unless the fact of the bodily injury to each additional victim is charged in the accusatory pleading and admitted or found to be true by the trier of fact. The maximum number of one year enhancements which may be imposed pursuant to this section is three.

Notwithstanding any other provision of law, the court may strike the enhancements provided in this section 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.

SEC. 16. The amendments to Section 289 of the Penal Code, in Section 5 of this act, that define "sexual penetration" for purposes of that section and use that phrase throughout the section to replace repetitive language, are intended to be technical only and not to make any substantive change to that section or any other provision of law, including any provision that refers to the offense specified in Section 289 of the Penal Code.

SEC. 17. In repealing Section 667.72 of the Penal Code, in Section 9 of this act, the Legislature recognizes that the conduct punished under that provision is now subject to greater punishment under Section 667.71 of the Penal Code. The repeal of Section 667.72 of the Penal Code shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received a punishment while that provision was in effect.

SEC. 18. The amendment of Section 23558 of the Vehicle Code, in Section 15 of this act, is intended to be declaratory of existing law.

SEC. 19. Section 10.5 of this bill incorporates amendments to Section 803 of the Penal Code proposed by both this bill and SB 1307. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 803 of the Penal Code, and (3) this bill is enacted after SB 1307, in which case Section 803 of the Penal Code, as amended by Section 10 of this bill, shall remain operative only until the operative date of SB 1307, at which time Section 10.5 of this bill shall become operative.

SEC. 20. Section 11.5 of this bill shall become operative only if (1) AB 313 of the 1999–2000 Regular Session and this bill are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) this bill amends Section 1170.11 of the Penal Code, and (3) AB 313 repeals Section 667.10 of the Penal Code, in which case Section 1170.11 of the Penal Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of AB 313, at which time Section 11.5 of this bill shall become operative.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct and conform certain criminal law statutes at the earliest possible time so as to avoid confusion regarding these provisions, it is necessary for this act to take effect immediately.

CHAPTER 707

An act to add Section 11198 to the Penal Code, relating to corrections.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The Legislature hereby finds and declares that this act, by ensuring continued public jurisdiction over correctional facilities, is necessary for the protection of the public safety of California residents and applies equally to both local and out-of-state private entities.

(b) The Legislature further finds and declares that California has a legitimate interest in reserving, as exclusive unto itself, exercise of its sovereign power to recognize the authority of any jurisdiction, outside of this state, to enforce the housing, confinement, or detention of any person within the borders of California.

SEC. 2. Section 11198 is added to the Penal Code, to read:

11198. (a) Except as authorized by California statute, no city, county, city and county, or private entity shall cause to be brought into, housed in, confined in, or detained in this state any person sentenced to serve a criminal commitment under the authority of any jurisdiction outside of California.

(b) It is the intent of the Legislature that this act shall neither prohibit nor authorize the confinement of federal prisoners in this state.

CHAPTER 708

An act to amend Sections 7026 and 7058 of, and to add Section 7058.1 to, the Business and Professions Code, relating to contractors.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 7026 of the Business and Professions Code is amended to read:

7026. "Contractor," for the purposes of this chapter, is synonymous with "builder" and, within the meaning of this chapter, a contractor is any person, who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair,

add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or traffic diversions, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. "Contractor" includes subcontractor and specialty contractor. "Roadway" includes, but is not limited to, public or city streets, highways, or any public conveyance.

SEC. 2. Section 7058 of the Business and Professions Code is amended to read:

7058. (a) A specialty contractor is a contractor whose operations involve the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(b) A specialty contractor includes a contractor whose operations include the business of servicing or testing fire extinguishing systems.

(c) A specialty contractor includes a contractor whose operations are concerned with the installation and laying of carpets, linoleum, and resilient floor covering.

(d) A specialty contractor includes a contractor whose operations are concerned with preparing or removing roadway construction zones, lane closures, flagging, or traffic diversions on roadways, including, but not limited to, public streets, highways, or any public conveyance.

On and after January 1, 2001, no person or entity shall set up or remove roadway construction zones, lane closures, flagging, or traffic diversions on any roadway unless that person or entity holds the appropriate specialty license pursuant to this chapter.

SEC. 3. Section 7058.1 is added to the Business and Professions Code, to read:

7058.1. (a) An individual or entity covered under subdivision (d) of Section 7058 is exempt from testing for a specialty license with regard to those operations if, by no later than March 31, 2000, the individual or entity provides documentation and certification under penalty of perjury that all of the following apply:

(1) The individual or entity has been continuously engaged in the business of traffic control for at least the prior 10 years.

(2) The individual or entity has not been a party to a construction litigation judgment totaling more than five hundred thousand dollars ($500,000) or 5 percent of the annual value of work performed, whichever is less.

(3) The individual or entity has not had any conviction for a serious or willful violation of the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code).

(4) The individual or entity has not been convicted of a violation of federal or state law, including, but not limited to, a violation of provisions governing the payment of wages, benefits, or personal income tax withholding, or provisions governing Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding requirements, or unemployment insurance payment requirements, during the last five years. For the purposes of the paragraph, only a conviction as an employer shall be deemed applicable, unless it is shown that the individual or entity, in the capacity of an employer, failed to comply with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code.

(5) The individual or entity has not been convicted of submitting a false or fraudulent claim to a public agency during the last five years.

(b) Any employer who is found to have falsified his or her application for exemption from testing with respect to any information required to be provided under this section may not reapply for that exemption or apply for the required specialty license for a period of two years.

(c) Until the Contractors' State Licensing Board adopts an examination for the classification specified in subdivision (d) of Section 7058, any individual or entity that does not qualify for an exemption from testing under subdivision (a) and is performing work defined under subdivision (d) of Section 7058 shall be required to apply for a license in order to continue performing that work until an examination is available, at which time, that individual or entity shall be subject to the examination requirement.

SEC. 4. In enacting this act, it is the intent of the Legislature not to require any licensed contractor to obtain a new license for the preparation and removal of roadway construction zones, lane closures, or traffic diversions as long as that work is incidental to the performance of work for which the contractor is licensed and the Legislature expressly recognizes that any licensed contractor may perform this work pursuant to Section 7059 of the Business and Professions Code.

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.

CHAPTER 709

An act to add Article 10 (commencing with Section 17077.10) to Chapter 12.5 of Part 10 of, and to add Section 17096 to, the Education Code, relating to school facilities.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 10 (commencing with Section 17077.10) is added to Chapter 12.5 of Part 10 of the Education Code, to read:

Article 10. School Project Safety Components

17077.10. (a) It is a goal of the Legislature to eventually enhance pupil safety by equipping all elementary and secondary school classrooms with a telephone hook connected to a public switched network.

(b) The Legislature finds and declares that as of 1999, there are approximately 205,000 classrooms in California's elementary and secondary schools and only a small, undetermined percentage of these classrooms have telephones. The Legislature finds and declares that in order to protect the safety of pupils, schools should be integrated into local emergency, information, and interagency health and safety, networks with up-to-date telecommunications systems. Connection to these systems would also facilitate community and parent interaction with teachers and schools, and thereby further enhance pupil safety.

(c) "School building" as used in this section means and includes any building used, or designed to be used, for elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program, established by or authorized to act by any agreement under joint exercise of power, or by the United States government, or any agency thereof. This definition includes any fabrication, construction, or alteration of a relocatable school building.

(d) Commencing with applications submitted on or after January 1, 2000, any school district applying for funding pursuant to this chapter shall include in its plans and specifications for the construction or fabrication of a new or modernized school building,

that includes the construction or fabrication of new or modernized classrooms, a hard-wired connection to a public switched telephone network in each new or modernized classroom. However, a school district may meet this requirement by utilizing wireless technology equal to a hard-wired connection to a public switched telephone network.

SEC. 2. Section 17096 is added to the Education Code, to read:

17096. Commencing with leases entered into on or after January 1, 2000, the plans and specifications for portable classrooms funded pursuant to this chapter shall include a provision for a telephone in each portable classroom. The connection from the portable classroom to a public switched telephone network, as set forth in Section 17077.10, shall be made by the school district at the time of the installation of the building. However, a school district may meet this requirement by utilizing wireless technology equivalent to a hard-wired connection to a public switched telephone network.

CHAPTER 710

An act to amend Sections 44346.1 and 44424 of the Education Code, relating to teacher credentialing.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44346.1 of the Education Code is amended to read:

44346.1. (a) The commission shall deny any application for the issuance of a credential made by an applicant who has been convicted of a violent or serious felony or a crime set forth in subdivision (a) of Section 44424 or whose employment has been denied or terminated pursuant to Section 44830.1.

(b) This section applies to any violent or serious offense which, if committed in this state, would have been punishable as a violent or serious felony.

(c) For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

(d) Notwithstanding subdivision (a), a person shall not be denied a credential solely on the basis that the applicant or holder has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

SEC. 2. Section 44424 of the Education Code is amended to read:

44424. (a) Upon the conviction of the holder of any credential issued by the State Board of Education or the Commission on Teacher Credentialing of a violation, or attempted violation, of a violent or serious felony as described in Section 44346.1, or any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 217.1, both inclusive, 220, 222, 244, 245, 261 to 267, both inclusive, 273a, 273ab, 273d, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to felony convictions, 503 and 504, or of any offense involving lewd and lascivious conduct under Section 272 of the Penal Code, or any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punished as one or more of the offenses specified in this section, becoming final, the commission shall forthwith revoke the credential.

(b) Upon a plea of nolo contendre as a misdemeanor to one or more of the crimes set forth in subdivision (a), all credentials held by the respondent shall be suspended until a final disposition regarding those credentials is made by the commission. Any action that the commission is permitted to take following a conviction may be taken after the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commission shall revoke a credential issued to a person whose employment has been denied or terminated pursuant to Section 44830.1.

(d) Notwithstanding subdivision (a), a credential shall not be revoked solely on the basis that the applicant or holder has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

CHAPTER 711

An act to add Section 44259.5 to, the Education Code, relating to teachers.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44259.5 is added to the Education Code, to read:

44259.5. (a) By July 1, 2002, the commission shall ensure that an accredited program of professional preparation offered pursuant to paragraph (3) of subdivision (b) of Section 44259 satisfies standards established by the commission for the preparation of teachers for all pupils, including English language learners. The standards shall be based upon an independent job analysis of the essential knowledge, skills, and abilities needed by all classroom teachers to develop English language skills while maintaining academic progress across the curriculum and shall take into account existing standards and test specifications for the Crosscultural, Language and Academic Development certificate. The commission shall ensure that the standards established pursuant to this subdivision are aligned with the requirements of subparagraph (A) of paragraph (4) of subdivision (b) of Section 44259 and Section 60200.4.

(b) To maintain current statutory options for teachers in completing credential requirements, the commission shall provide candidates, including candidates prepared in other states, with an examination route to fulfilling the requirements pursuant to subdivision (a) for essential preparation to teach English language learners. The commission shall provide for a comprehensive validity study of the examination before implementing this section.

(c) Commencing July 1, 2003, the commission may not issue a preliminary teaching credential to an applicant pursuant to subdivision (b) of Section 44259 unless the applicant has satisfied the standards and requirements established pursuant to subdivision (a) or has an authorization to provide services to English language learners issued pursuant to Section 44253, 44253.1, 44253.2, 44253.3, 44253.4, or 44253.10.

(d) Commencing July 1, 2003, an approved program of beginning teacher induction offered pursuant to paragraph (2) of subdivision (c) of Section 44259 shall satisfy standards established by the commission and the Superintendent of Public Instruction for beginning teacher induction for teachers for all pupils, including English language learners. The commission and the superintendent shall incorporate in these standards the essential knowledge, skills, and abilities needed for first-year and second-year certificated teachers to apply effective instructional strategies that assist pupils to develop English language proficiency while maintaining academic progress across the curriculum. The standards shall be based upon the independent job analysis of the essential knowledge, skills, and abilities for all classroom teachers conducted pursuant to subdivision (a).

(e) Commencing July 1, 2005, the commission may not initially issue a professional clear teaching credential to an applicant pursuant

to subdivision (c) of Section 44259 unless the applicant has satisfied the standards and requirements established pursuant to subdivision (d) or has an authorization to provide services to English language learners issued pursuant to Section 44253, 44253.1, 44253.2, 44253.3, 44253.4, or 44253.10.

(f) No provision of this section applies to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

(g) A candidate for a teaching credential pursuant to Section 44259 is entitled to earn and receive the credential by fulfilling the standards and requirements for the credential that were in effect when the candidate entered accredited preparation or approved induction for the credential.

(h) (1) By July 1, 2000, the commission shall report to the education policy committees in each house of the Legislature the following:

(A) The results of the job analysis required pursuant to subdivision (a).

(B) The status of the new standards developed pursuant to subdivision (a).

(C) The status of the implementation of the standards developed pursuant to subdivision (a).

(2) By July 1, 2001, the commission shall report to the education policy committees in each house of the Legislature on the new standards it is required to develop pursuant to subdivision (a) and the progress of the implementation of the new standards by accredited programs of professional preparation.

(3) By July 1, 2002, the commission shall report to the education policy committees in each house of the Legislature on the outcomes and recommendations for the implementation of the validity study required pursuant to subdivision (b).

CHAPTER 712

An act to amend Sections 115730 and 115735 of, and to add and repeal Article 4 (commencing with Section 115810) of Chapter 4 of Part 10 of Division 104 of, the Health and Safety Code, relating to public playgrounds.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 115730 of the Health and Safety Code is amended to read:

115730. (a) All public agencies operating playgrounds, including a state agency, city, county, city and county, and district, shall upgrade their playgrounds by replacement or improvement as necessary to satisfy the regulations adopted pursuant to Section 115725 to the extent state funds are made available specifically for that purpose through state bonds or other means. All other entities operating playgrounds open to the public shall upgrade their playgrounds by replacement or improvement, as necessary to satisfy the regulations adopted pursuant to Section 115725, on or before January 1, 2003.

(b) (1) Subdivision (a) and the regulations adopted pursuant to Section 115725 shall not apply to playgrounds installed between January 1, 1994, and December 31, 1999. Those playgrounds shall be subject to the requirements to upgrade set forth in this subdivision until 15 years after the date those playgrounds were installed, at which time those playgrounds shall be subject to subdivision (a) and the regulations adopted pursuant to Section 115725.

(2) All public agencies operating playgrounds installed between January 1, 1994, and December 31, 1999, shall upgrade those playgrounds by replacement or improvement as necessary to satisfy criteria that are at least as protective as the guidelines in the Handbook for Public Playground Safety, Publication Number 325, United States Consumer Product Safety Commission, November 1994, to the extent that state funds are made available specifically for that purpose through state bonds or other means.

(3) All other entities operating playgrounds open to the public and installed between January 1, 1994, and December 31, 1999, shall upgrade those playgrounds by replacement or improvement as necessary to satisfy criteria that are at least as protective as the guidelines in the Handbook for Public Playground Safety, Publication Number 325, United States Consumer Product Safety Commission, November 1994, on or before January 1, 2003.

(c) Before October 1, 2000, all public agencies operating playgrounds and all other entities operating playgrounds open to the public shall have a playground safety inspector, certified by the National Playground Safety Institute, conduct an initial inspection for the purpose of aiding compliance with the requirements to upgrade set forth in subdivision (a) or (b), as applicable. Any inspection report may serve as a reference when the upgrades are made, but is not intended for any other use.

(d) This section shall not affect the liability or absence of liability of playground operators.

SEC. 2. Section 115735 of the Health and Safety Code is amended to read:

115735. For purposes of this article, all of the following shall apply:

(a) An "entity operating a playground open to the public" shall include, but not be limited to, a church, subdivision, hotel, motel, resort, camp, office, hospital, shopping center, day care setting, and

restaurant. An "entity operating a playground open to the public" shall not include a foster family home, certified family home, small family home, group home, or family day care home, which is licensed and regulated to meet child safety requirements enforced by the State Department of Social Services.

(b) "Playground" shall refer to an improved outdoor area designed, equipped, and set aside for children's play that is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal landforms, vegetation, and related structures.

(c) "Supervision" shall include all general and specific supervision necessary to protect children from unreasonable risk of harm from site hazards, the acts of other children, or the use of the playground in a way that was not intended by the designer or manager of the playground. The regulations required pursuant to this article shall not expand on the periods or circumstances when supervision shall be provided beyond the periods or circumstances already determined to be within the existing standard of care to which a playground operator is held.

SEC. 3. Article 4 (commencing with Section 115810) is added to Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, to read:

Article 4. Safe Playground Facilities and Recycled Materials

115810. This article shall be known, and may be cited, as the Playground Safety and Recycling Act of 1999.

115811. The playground safety and recycling program is hereby established, to be administered by the California Integrated Waste Management Board. The purpose of the program is to prevent childhood injuries on public playgrounds, while developing a market for recycled materials suitable for use in public playgrounds.

115812. As used in this article, the following terms have the following meanings:

(a) "Board" means the California Integrated Waste Management Board established pursuant to Section 40400 of the Public Resources Code.

(b) "Playground" means an improved outdoor area designed, equipped, and set aside for children's play that is not intended for use as an athletic playing field or athletic court, and includes in that area such facilities as play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

115813. (a) The board, in consultation with the State Department of Education, the State Department of Health Services, the Department of Conservation, the Department of Parks and Recreations, the League of California Cities, the California State Association of Counties, the California Park and Recreation Society, and other appropriate entities, including, but not limited to,

beverage container recyclers, waste haulers, special districts, school districts, county superintendents of schools, nonprofit organizations, and private companies, shall develop a program to provide grants to local agencies to upgrade, repair, refurbish, install, or replace public playground facilities and promote the use of recycled materials in those playground facilities.

(b) The board shall administer grants for purposes of this article, which shall be awarded pursuant to a request for application process.

(c) Grants shall be awarded pursuant to this article to local agencies, including, but not limited to, schools, school districts, cities, counties, cities and counties, special districts, and joint ventures between school districts and other local agencies, including, but not limited to, park districts, for the purpose of improving or replacing their public playgrounds.

(d) To be eligible for a grant pursuant to this article, a local agency shall do both of the following:

(1) Demonstrate its ability to provide a 50 percent match, either through public or private funds or in-kind contributions. The matching requirement may be reduced to a 25 percent match, either through public or private funds or in-kind contributions, upon a finding by the board that the 50 percent matching requirement would impose an extreme financial hardship on the local agency applying for the grant.

(2) Guarantee that 50 percent of the grant funds will be used for the improvement or replacement of playground equipment or facilities through the use of recycled materials.

(e) No grant made pursuant to this article shall exceed the sum of twenty-five thousand dollars ($25,000) for any one playground.

115814. (a) The board may adopt emergency regulations to implement this article in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and the adoption of those 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.

(b) Emergency regulations adopted pursuant to this section shall be exempt from the review and approval of the Office of Administrative Law.

(c) The emergency regulations shall be submitted to the Office of Administrative Law only for purposes of filing with the Secretary of State and publication in the California Code of Regulations.

115815. (a) The Playground Safety and Recycling Account is hereby created in the State Treasury. Moneys in the account may be expended, upon appropriation by the Legislature, for the purposes of this article and for the administrative costs incurred by the board in administering the program. Those administrative costs shall not exceed 5 percent of the funds made available annually for the program, or an amount otherwise specified in the annual Budget Act.

(b) The program established by this article shall be implemented by the board with funds appropriated by the Legislature for deposit in the Playground Safety and Recycling Account or with other funds made available specifically for this program.

(c) To the extent that Proposition 98 funds are deposited into the Playground Safety and Recycling Account or otherwise made available for the purposes of providing grants pursuant to this article, those funds shall be used exclusively for grants to eligible local educational agencies.

115816. This article shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. The Superintendent of Public Instruction shall enter into a memorandum of understanding with the California Integrated Waste Management Board for the purpose of allocating the two million dollars ($2,000,000) appropriated to the Superintendent of Public Instruction by subdivision (bb) of Section 65 of Chapter 78 of the Statutes of 1999, to provide matching grants to local educational agencies for the purpose of improving or replacing schoolsite playground equipment to meet state-mandated playground safety standards, consistent with the Playground Safety and Recycling Act of 1999 established by Article 4 (commencing with Section 115810) of Chapter 4 of Part 10 of Division 104 of the Health and Safety Code, as added by Section 5 of this act.

CHAPTER 713

An act to add Article 8.5 (commencing with Section 51795) to Chapter 5 of Part 28 of the Education Code, relating to school instructional gardens.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 8.5 (commencing with Section 51795) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 8.5. School Instructional Gardens

51795. The Legislature finds and declares all of the following:

(a) School garden projects provide an interactive, hands-on learning environment to teach composting and waste management techniques and the fundamental nutrition concepts embodied in the Dietary Guidelines for Americans and to foster a better

understanding and appreciation of where food comes from, how it gets from the farm to the table, and the important role of agriculture in the state, national, and global economy.

(b) Encouraging and supporting a garden in every school creates opportunities for children to make healthier food choices, participate more successfully in their education experiences, and develop a deeper appreciation of both their community and each other.

(c) Garden programs can equally enhance any subject area including science, environmental education, math, reading, writing, art, physical education, history, and geography. As California continues to strive toward improved pupil performance, the garden project provides a unique method through which it can be achieved.

51796. (a) The Instructional School Gardens Program is hereby established for the promotion, creation, and support of instructional school gardens by eligible educational agencies. The program shall be administered by the State Department of Education through the allocation of grants to applicant eligible education agencies and the provision of technical assistance to eligible education agencies. The State Department of Education may consult with the Integrated Waste Management Board and any appropriate public institution of higher education regarding curriculum development and regarding the evaluation of any program established pursuant to this article. Any eligible education agency interested in participating in the Instructional School Gardens Program may apply to the State Department of Education for a one-time grant.

(b) For purposes of this article, "eligible educational agency" means any school district or county office of education.

51797. During its annual discretionary grant funding process, the California Integrated Waste Management Board shall give preferential consideration to providing an appropriate level of funding to the program established pursuant to this article.

51798. This article shall be implemented only if funds become available from private donations, special fund money, or federal money, or any combination thereof, for the purposes of this article.

CHAPTER 714

An act to add Section 709.7 to the Public Utilities Code, relating to telecommunications.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The Legislature has encouraged and continues to encourage the rapid deployment of advanced telecommunications services and capabilities to all Californians. In effect, those persons excluded from high-speed networks today will find themselves excluded from the economic opportunities of tomorrow.

(b) High bandwidth connections between the telecommunications network and end users in California facilitate the availability of important new telecommunications services and capabilities, including telemedicine, distance learning, telecommuting, high-speed Internet access, and video telephony.

(c) The California economy will benefit significantly from expanded competition and availability of high bandwidth services provided over the telephone network to individual consumers, small and medium sized businesses, and educational facilities.

(d) Expanded competition and availability for high bandwidth services can add over $64,000,000,000 to gross state output and create over 600,000 new jobs in California by the end of 2001.

(e) In order to ensure that California consumers will benefit from broad availability of high-speed access, affordable pricing, and the highest quality of consumer service, the Legislature instructs the Public Utilities Commission to take certain actions to monitor and participate in the pending proceeding of the Federal Communications Commission, entitled "In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability," CC Docket No. 98-147, adopted March 18, 1999 (the Advanced Services Docket), in which the Federal Communications Commission is engaging in a rulemaking proceeding to consider issues related to loop access, pricing, and cost allocation in the provision of broadband data services over telephone lines provided by an incumbent local exchange carrier.

(f) The Federal Communications Commission has established the following initial deadlines for the Advanced Services Docket: June 15, 1999, for comments and July 15, 1999, for reply comments. Based on those dates, the Legislature believes that the Federal Communications Commission will complete its rulemaking proceeding before January 1, 2000, and that the Public Utilities Commission will benefit significantly from the development of the record in the Advanced Services Docket.

SEC. 2. It is the intent of the Legislature that the Public Utilities Commission do one of the following:

(a) If the Federal Communications Commission adopts an order on or before January 1, 2000, with regard to its proceeding entitled "In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability," CC Docket No. 98-147, adopted March 18, 1999, that the Public Utilities Commission comply with, and implement, that order, consistent with state and federal law, within 90 days from the date that the rules adopted by that order are published in the Federal Register.

(b) If the Federal Communications Commission does not adopt an order on or before January 1, 2000, with regard to its proceeding entitled "In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability," CC Docket No. 98-147, adopted March 18, 1999, that the Public Utilities Commission expeditiously examine the technical, operational, economic, and policy implications of line sharing and, if the Public Utilities Commission determines it to be appropriate, adopt rules to require incumbent local exchange carriers in this state to permit competitive data local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

SEC. 3. Section 709.7 is added to the Public Utilities Code, to read:

709.7. (a) This section shall be known and may be cited as the California High Speed Internet Access Act of 1999.

(b) The Public Utilities Commission shall monitor and participate in the proceeding of the Federal Communications Commission, entitled "In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability," CC Docket No. 98-147, adopted March 18, 1999, addressing whether to require incumbent local exchange carriers to permit interconnection by competitive data local exchange carriers at any technically feasible point to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

(c) If the Federal Communications Commission adopts an order on or before January 1, 2000, with regard to the proceeding described in subdivision (b), the Public Utilities Commission shall comply with, and implement, in a manner that the Public Utilities Commission determines to be appropriate, that order, as it pertains to loop access, pricing, and cost allocation in the provision of broadband data services over telephone lines provided by an incumbent local exchange carrier, consistent with state and federal law, within 90 days from the date that the rules adopted by that order are published in the Federal Register. If the Federal Communications Commission does not adopt an order on or before January 1, 2000, with regard to the proceeding described in subdivision (b), the Public Utilities Commission shall expeditiously examine the technical, operational, economic, and policy implications of interconnection as described in subdivision (b) and, if the Public Utilities Commission determines it to be appropriate, adopt rules to require incumbent local exchange carriers in this state to permit competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

(d) As used in this section, the following terms have the following meanings:

(1) "Incumbent local exchange carrier" has the same meaning as that term is defined in Section 251(h)(1) of Title 47 of the United States Code.

(2) "Competitive local exchange carrier" has the same meaning as the term "local exchange carrier," as defined in Section 153(26) of Title 47 of the United States Code.

CHAPTER 715

An act to amend Sections 10089.39 and 10089.40 of, and to amend, repeal, and add Section 10089.27 of, the Insurance Code, relating to earthquake insurance.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 10089.27 of the Insurance Code is amended to read:

10089.27. (a) Every participating insurer that has inforce residential earthquake insurance policies in the state as of the date of commencement of authority operations shall renew each inforce residential earthquake insurance policy or earthquake coverage provided by endorsement into the authority at the time the policy or endorsement comes up for renewal. The effective date of each policy renewal into the authority shall be the renewal date of the policy as recorded in the records of the insurer and disclosed to the policyholder. The risk of loss under the insurance policy does not transfer to the authority until 12:01 a.m. of the policy renewal date.

(b) (1) All policies of residential earthquake insurance written by any participating insurer shall have been renewed into the authority within one year of the commencement of operations of the authority or the date an insurer elects to participate in the authority, whichever is later, and after that date, no participating insurer shall be permitted to write a policy of insurance that provides coverage within the terms and limits of a policy of basic residential earthquake insurance for any qualifying residential property in the state. Participating insurers may sell residential earthquake insurance products that supplement or augment the basic residential earthquake insurance provided by the authority.

(2) Upon application to the authority demonstrating good cause and approval of the commissioner, a participating insurer may take up to 60 days beyond that one-year period to complete its renewal of earthquake policies into the authority. No extension of time to complete earthquake policy renewals into the authority shall serve to extend the due date by which an insurer is to make its initial capital

contribution, as set forth in Section 10089.15. The commissioner shall not approve any extension if the effect of the extension would allow an insurer to selectively transfer earthquake policies with high risks to the authority while retaining policies with lower risks during that interim period.

(3) After policies of residential earthquake insurance are renewed in the authority, insurers shall have no responsibilities or liabilities regarding those policies for losses incurred after the date of renewal of those policies, except for duties and responsibilities to the authority and policyholders under the terms of this chapter.

(4) No insurer may participate in the authority unless every insurer affiliated with that insurer (as defined in subdivision (a) of Section 1215) or under common control with that insurer (as defined in subdivision (b) of Section 1215) also participates in the authority.

(5) If a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing less than 33 percent of the voting securities of an insurer that writes earthquake insurance, but does not write homeowners or dwelling fire insurance in the state, and the insurer became part of an affiliated group which includes one or more participating insurers as a result of an acquisition or merger which occurred after the effective date of this chapter, notwithstanding paragraph (4), the insurer is not required to participate in the authority even though an insurer affiliated with it or under common control with it does participate in the authority, provided the insurer does not transact residential earthquake insurance business with agents exclusively appointed or employed by the participating insurer.

(6) On or after October 1, 2002, but before January 1, 2003, each insurer exempted from participation in the authority by paragraph (5) shall report to the commissioner and the Legislature on the number of residential earthquake insurance policies written by that insurer where a participating insurer affiliated or under common control with that insurer has written the policies of residential property insurance on the same residential properties, the geographic distribution of those residential properties, and the percentage of that insurer's total residential earthquake insurance business represented by those policies. The commissioner shall compare the information received from each insurer exempt pursuant to paragraph (5), with the number and geographic distribution of residential earthquake insurance policies placed with the authority where the participating affiliated insurer has written the policy of residential property insurance. The commissioner shall report this data to the Legislature, together with a determination of whether or not there has been material adverse selection.

(c) This section shall become inoperative on January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 1.5. Section 10089.27 is added to the Insurance Code, to read:

10089.27. (a) Every participating insurer that has in-force residential earthquake insurance policies in the state as of the date of commencement of authority operations shall renew each in-force residential earthquake insurance policy or earthquake coverage provided by endorsement into the authority at the time the policy or endorsement comes up for renewal. The effective date of each policy renewal into the authority shall be the renewal date of the policy as recorded in the records of the insurer and disclosed to the policyholder. The risk of loss under the insurance policy does not transfer to the authority until 12:01 a.m. of the policy renewal date.

(b) (1) All policies of residential earthquake insurance written by any participating insurer shall have been renewed into the authority within one year of the commencement of operations of the authority or the date an insurer elects to participate in the authority, whichever is later, and after that date, no participating insurer shall be permitted to write a policy of insurance that provides coverage within the terms and limits of a policy of basic residential earthquake insurance for any qualifying residential property in the state. Participating insurers may sell residential earthquake insurance products that supplement or augment the basic residential earthquake insurance provided by the authority.

(2) Upon application to the authority demonstrating good cause and approval of the commissioner, a participating insurer may take up to 60 days beyond that one-year period to complete its renewal of earthquake policies into the authority. No extension of time to complete earthquake policy renewals into the authority shall serve to extend the due date by which an insurer is to make its initial capital contribution, as set forth in Section 10089.15. The commissioner shall not approve any extension if the effect of the extension would allow an insurer to selectively transfer earthquake policies with high risks to the authority while retaining policies with lower risks during that interim period.

(3) After policies of residential earthquake insurance are renewed in the authority, insurers shall have no responsibilities or liabilities regarding those policies for losses incurred after the date of renewal of those policies, except for duties and responsibilities to the authority and policyholders under the terms of this chapter.

(4) No insurer may participate in the authority unless every insurer affiliated with that insurer (as defined in subdivision (a) of Section 1215) or under common control with that insurer (as defined in subdivision (b) of Section 1215) also participates in the authority.

(c) This section shall become operative on January 1, 2004.

SEC. 2. Section 10089.39 of the Insurance Code is amended to read:

10089.39. (a) The operational rules of the Earthquake Loss Mitigation Fund shall be part of the authority's plan of operations.

(b) On or before July 1, 2000, the authority shall establish in the operational rules of the Earthquake Loss Mitigation Fund, a plan for

the expedited expansion of the residential retrofit program statewide. The program shall include personnel and administrative requirements and all other programmatic specifications necessary to the implementation of the plan.

SEC. 3. Section 10089.40 of the Insurance Code is amended to read:

10089.40. (a) Rates established by the authority shall be actuarially sound so as to not be excessive, inadequate, or unfairly discriminatory. Rates shall be established based on the best available scientific information for assessing the risk of earthquake frequency, severity, and loss. Rates shall be equivalent for equivalent risks. Factors the board shall consider in adopting rates include, but are not limited to, the following:

(1) Location of the insured property and its proximity to earthquake faults and to other geological factors that affect the risk of earthquake or damage from earthquake.

(2) The soil type on which the insured dwelling is built.

(3) Construction type and features of the insured dwelling.

(4) Age of the insured dwelling.

(5) The presence of earthquake hazard reduction factors, including those set forth in subdivision (a) of Section 10089.2.

(b) (1) If scientific information from geologists, seismologists, or similar experts that assesses the frequency or severity of risk of earthquake is considered in setting rates or in arriving at the modeling assumptions upon which those rates are based, the information may be used to establish differentials among risks only if the information, assumptions, and methodology used are consistent with the available geophysical data and the state of the art of scientific knowledge within the scientific community.

(2) Scientific information from geologists, seismologists, or similar experts shall not be conclusive to support the establishment of different rates between the most populous rating territories in the northern and southern regions of the state unless that information, as analyzed by experts such as the United States Geological Survey, the California Division of Mines and Geology, and experts in the scientific or academic community, clearly shows a higher risk of earthquake frequency, severity, or loss between those most populous rating territories to support those differences.

(3) It is not the intent of the Legislature in adopting this subdivision to mandate a uniform statewide flat rate for California Earthquake Authority policies.

(c) The classification system established by the board shall not be adjusted or tempered in any way to provide rates lower than are justified for classifications that present a high risk of loss or higher than are justified for classifications that present a low risk of loss.

(d) Policyholders who have retrofitted their homes to withstand earthquake shake damage according to standards and to the extent set by the board shall enjoy a premium discount or credit of 5 percent

on the authority-issued policy of residential earthquake coverage. For residential dwellings, the 5-percent discount shall be applicable if the dwelling, at a minimum, meets the following requirements: the dwelling was built prior to 1979, is tied to the foundation, has cripple walls braced with plywood or its equivalent, and the water heater is secured to the building frame. For mobilehomes, the 5-percent discount shall be applicable if the mobilehome, at a minimum, is reinforced by an earthquake resistant bracing system certified by the Department of Housing and Community Development. The board may approve a premium discount or credit above 5 percent, as long as the discount or credit is determined actuarially sound by the authority.

(e) On or before July 1, 2000, the authority shall issue a report to the Legislature on the current status of the Earthquake Loss Mitigation Fund established by Section 10089.37, the residential retrofit program authorized by Section 10089.38, and application of the retrofit premium discount or credit established in subdivision (d). The report shall include a financial report on fund deposits, income, and expenditures. The report shall also include statistics about the number of counties which are eligible for the retrofit program, the number of homeowners who have applied for the program, the number of retrofits which have been approved and completed, a breakdown of the amount of authority funds and private funds which have been expended in the program, the dollar amount of insurance rate reductions which have been provided, and other information concerning the status of the program. The report shall also include a copy of the plan for the expedited expansion of the residential retrofit program required by subdivision (b) of Section 10089.39 and any specifications for additional statutory authority or regulations necessary for the implementation of the plan.

(f) All rates shall be approved by the commissioner prior to their use.

CHAPTER 716

An act to amend Section 1358.20 of, and to add Section 1358.24 to, the Health and Safety Code, and to amend Section 10194.8 of, and to add Section 10192.24 to, the Insurance Code, relating to health care coverage.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1358.20 of the Health and Safety Code is amended to read:

1358.20. (a) No plan shall deny or condition the offering or effectiveness of any Medicare supplement contract, nor discriminate in the pricing of the contract, because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for that contract that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from a plan shall be made available to all applicants who qualify under this section. This section shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the subscriber or enrollee received treatment or was otherwise diagnosed during the six months before it became effective.

(b) (1) In determining whether an exclusion of benefits for a preexisting condition may be applied to any person during the open enrollment period provided in this section for Medicare supplement coverage, a plan shall credit the time the person was covered under creditable coverage, provided the individual becomes eligible for coverage under the Medicare supplement plan:

(A) Within 180 days of the termination of any creditable coverage if the creditable coverage is offered through employment or sponsored by an employer and if the Medicare supplement insurance is offered through succeeding employment or sponsored by a succeeding employer, and is not in violation of the Medicare Secondary Payer provision of Section 1862(b) of the Social Security Act (42 U.S.C. Sec. 1395y(b)).

(B) In cases not covered by paragraph (1), within 30 days of the termination of any other creditable coverage.

(2) For purposes of this section, ''creditable coverage'' means any of the following:

(A) Any individual or group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care insurance, dental coverage, vision coverage, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(B) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(C) The medicaid program pursuant to Title XIX of the Social Security Act.

(D) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(E) 10 U.S.C.A. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A state health benefits risk pool.

(H) A health plan offered under 5 U.S.C.A. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(I) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Service Act, as amended by Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996.

(J) A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C.A. Sec. 2504(e)).

(K) Any other creditable coverage as defined by subdivision (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(c) An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she reaches age 65. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

(d) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(f) (1) An individual who was previously enrolled in, but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after the effective date of the act adding this paragraph. Within 30 days of the effective date of the act adding this paragraph, health plans shall notify their former Medicare enrollees who were terminated during the period specified in paragraph (1) of the new open enrollment period. Health plan notices shall inform the terminated enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling and Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(4) Health plans that terminate Medicare enrollees shall notify those enrollees in the termination notice of the additional open enrollment period authorized by this subdivision. Health plan notices shall inform enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(g) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no plan that offers contracts to supplement Medicare that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. A plan that offers contracts to supplement Medicare shall notify a policyholder of his or her rights

under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 2. Section 1358.24 is added to the Health and Safety Code, to read:

1358.24. (a) No plan shall deny or condition the offering or effectiveness of any Medicare supplement contract, nor discriminate in the pricing of the contract, because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for that contract that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from a plan shall be made available to all applicants who qualify under this section. This section shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the subscriber or enrollee received treatment or was otherwise diagnosed during the six months before it became effective.

(b) (1) In determining whether an exclusion of benefits for a preexisting condition may be applied to any person during the open enrollment period provided in this section for Medicare supplement coverage, a plan shall credit the time the person was covered under creditable coverage, provided the individual becomes eligible for coverage under the Medicare supplement plan:

(A) Within 180 days of the termination of any creditable coverage if the creditable coverage is offered through employment or sponsored by an employer and if the Medicare supplement insurance is offered through succeeding employment or sponsored by a succeeding employer, and is not in violation of the Medicare Secondary Payer provision of Section 1862(b) of the Social Security Act (42 U.S.C. Sec. 1395y(b)).

(B) In cases not covered by paragraph (1), within 30 days of the termination of any other creditable coverage.

(2) For purposes of this section, "creditable coverage" means any of the following:

(A) Any individual or group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care insurance, dental coverage, vision coverage, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which

benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(B) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(C) The medicaid program pursuant to Title XIX of the Social Security Act.

(D) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(E) 10 U.S.C.A. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A state health benefits risk pool.

(H) A health plan offered under 5 U.S.C.A. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(I) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Service Act, as amended by Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996.

(J) A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C.A. Sec. 2504(e)).

(K) Any other creditable coverage as defined by subdivision (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(c) An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she reaches age 65. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

(d) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or

contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(f) (1) An individual who was previously enrolled in, but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after the effective date of the act adding this paragraph. Within 30 days of the effective date of the act adding this paragraph, health plans shall notify their former Medicare enrollees who were terminated during the period specified in paragraph (1) of the new open enrollment period. Health plan notices shall inform the terminated enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling and Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(4) Health plans that terminate Medicare enrollees shall notify those enrollees in the termination notice of the additional open enrollment period authorized by this subdivision. Health plan notices shall inform enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(g) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no plan that offers contracts to supplement Medicare that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another

Medicare supplement policy or contract. A plan that offers contracts to supplement Medicare shall notify a policyholder of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 3. Section 10194.8 of the Insurance Code is amended to read:

10194.8. (a) No Medicare supplement insurer shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. This section shall not be construed as preventing the exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10195, except as provided for in paragraph (1) of subdivision (b).

(b) (1) In determining whether an exclusion of benefits for a preexisting condition may be applied to any person during the open enrollment period provided in this section, a Medicare supplement insurer shall credit the time the person was covered under creditable coverage, provided the individual becomes eligible for coverage under the Medicare supplement policy:

(A) Within 180 days of the termination of any creditable coverage if the creditable coverage is offered through employment or sponsored by an employer and if the Medicare supplement insurance is offered through succeeding employment or sponsored by a succeeding employer, and is not in violation of the Medicare Secondary Payer provision of Section 1862(b) of the Social Security Act (42 U.S.C. Sec. 1395y(b)).

(B) In cases not covered by paragraph (1), within 30 days of the termination of any other qualifying prior coverage.

(2) For purposes of this section, "creditable coverage" means any of the following:

(A) Any individual or group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care insurance, dental coverage, vision coverage, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is

statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(B) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(C) The medicaid program pursuant to Title XIX of the Social Security Act.

(D) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(E) 10 U.S.C.A. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A state health benefits risk pool.

(H) A health plan offered under 5 U.S.C.A. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(I) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Service Act, as amended by Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996.

(J) A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C.A. Sec. 2504(e)).

(K) Any other creditable coverage as defined by subdivision (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(c) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she reaches age 65. Every insurer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that insurer at the time of application. Insurers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

(d) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this

section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(f) (1) An individual who was previously enrolled in but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after the effective date of the act adding this paragraph.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(g) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no Medicare supplement insurer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. A Medicare supplement insurer shall notify a policyholder of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 4. Section 10192.24 is added to the Insurance Code, to read:

10192.24. (a) No Medicare supplement insurer shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period

beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. This section shall not be construed as preventing the exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10195, except as provided for in paragraph (1) of subdivision (b).

(b) (1) In determining whether an exclusion of benefits for a preexisting condition may be applied to any person during the open enrollment period provided in this section, a Medicare supplement insurer shall credit the time the person was covered under creditable coverage, provided the individual becomes eligible for coverage under the Medicare supplement policy:

(A) Within 180 days of the termination of any creditable coverage if the creditable coverage is offered through employment or sponsored by an employer and if the Medicare supplement insurance is offered through succeeding employment or sponsored by a succeeding employer, and is not in violation of the Medicare Secondary Payer provision of Section 1862(b) of the Social Security Act (42 U.S.C. Sec. 1395y(b)).

(B) In cases not covered by paragraph (1), within 30 days of the termination of any other qualifying prior coverage.

(2) For purposes of this section, "creditable coverage" means any of the following:

(A) Any individual or group policy, contract, or program that is written or administered by a disability insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care insurance, dental coverage, vision coverage, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(B) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(C) The medicaid program pursuant to Title XIX of the Social Security Act.

(D) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(E) 10 U.S.C.A. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(F) A medical care program of the Indian Health Service or of a tribal organization.

(G) A state health benefits risk pool.

(H) A health plan offered under 5 U.S.C.A. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(I) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Service Act, as amended by Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996.

(J) A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C.A. Sec. 2504(e)).

(K) Any other creditable coverage as defined by subdivision (c) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(c)).

(c) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she reaches age 65. Every insurer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that insurer at the time of application. Insurers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

(d) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(f) (1) An individual who was previously enrolled in but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state

and federal law or regulations for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after the effective date of the act adding this paragraph.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulations, for any and all Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulations for persons terminated by their Medicare managed care plan.

(g) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no Medicare supplement insurer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. A Medicare supplement insurer shall notify a policyholder of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 5. Sections 2 and 4 of this act shall only become operative if Senate Bill 764 of the 1999–2000 Regular Session is enacted and becomes operative on or before January 1, 2000, and repeals Article 3.5 (commencing with Section 1358) of Chapter 2.2 of Division 2 of the Health and Safety Code, and Article 6 (commencing with Section 10192.05) of Chapter 1 of Part 2 of Division 2 of the Insurance Code. In that case, Sections 1 and 3 of this act shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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.

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CHAPTER 717

An act to amend Sections 11875, 11876, 11877.6, 11877.7, 11877.8, and 11877.14 of, and to add Section 11876.1 to, the Health and Safety Code, relating to alcohol and drug programs.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 11875 of the Health and Safety Code is amended to read:

11875. The Legislature finds and declares that it is in the best interests of the health and welfare of the people of this state to coordinate narcotic treatment programs to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription, and to establish and enforce minimum requirements for the operation of all narcotic treatment programs in this state.

SEC. 2. Section 11876 of the Health and Safety Code is amended to read:

11876. (a) In addition to the duties authorized by other provisions, the department shall perform all of the following:

(1) License the establishment of narcotic treatment programs in this state to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription, except that the Research Advisory Panel shall have authority to approve methadone or LAAM research programs. The department shall establish and enforce the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the replacement narcotic drugs and any other regulations that are necessary to protect the safety and well-being of the patient, the local community, and the public and to carry out the provisions of this chapter. A program may admit a patient to narcotics maintenance or narcotics detoxification treatment seven days after completion of a prior withdrawal treatment episode. The arrest and conviction records and the records of pending charges against any person seeking admission to a narcotic treatment program shall be furnished to narcotic treatment program directors upon written request of the narcotic treatment program director provided the request is accompanied by a signed release from the person whose records are being requested.

(2) Inspect narcotic treatment programs in this state and ensure that programs are operating in accordance with the law and promulgated regulations. The department shall have sole responsibility for compliance inspections of all programs in each county. Annual compliance inspections shall consist of an evaluation by onsite review of the operations and records of licensed narcotic treatment programs' compliance with applicable state and federal laws and regulations and the evaluation of input from local law enforcement and local governments, regarding concerns about the narcotic treatment program. At the conclusion of each inspection visit, the department shall conduct an exit conference to explain the cited deficiencies to the program staff and to provide recommendations to ensure compliance with applicable laws and regulations. The department shall provide an inspection report to the licensee within 30 days of the completed onsite review describing the program deficiencies. A corrective action plan shall be required from the program within 30 days of receipt of the inspection report. All corrective actions contained in the plan shall be implemented within 30 days of receipt of approval by the department of the corrective action plan submitted by the narcotic treatment program. For programs found not to be in compliance, a subsequent inspection of the program shall be conducted within 30 days after the receipt of the corrective action plan in order to ensure that corrective action has been implemented satisfactorily. Subsequent inspections of the program shall be conducted to determine and ensure that the corrective action has been implemented satisfactorily. For purposes of this requirement "compliance" shall mean to have not committed any of the grounds for suspension or revocation of a license provided for under subdivision (a) of Section 11877.7 or paragraph (2) of subdivision (b) of Section 11877.7. Inspection of narcotic treatment programs shall be based on objective criteria including, but not limited to, an evaluation of the programs' adherence to all applicable laws and regulations and input from local law enforcement and local governments. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements.

(3) Charge and collect licensure fees. In calculating the licensure fees the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs. Fees shall be used to offset licensure and inspection costs not to exceed actual costs.

(4) Study and evaluate, on an ongoing basis, narcotic treatment programs including, but not limited to, the adherence of the programs to all applicable laws and regulations and the impact of the programs on the communities in which they are located.

(5) Provide advice, consultation, and technical assistance to narcotic treatment programs to ensure that the programs comply with all applicable laws and regulations and to minimize any negative

impact that the programs may have on the communities in which they are located.

(6) In its discretion, to approve local agencies or bodies to assist it in carrying out the provisions of this chapter provided that the department may not delegate responsibility for inspection or any other licensure activity without prior and specific statutory approval. However, the department shall evaluate recommendations made by drug program administrators regarding licensing activity in their respective counties.

(7) The director may grant exceptions to the regulations adopted under this chapter if he or she determines that this action would improve treatment services or achieve greater protection to the health and safety of patients, the local community, or the general public. No exception may be granted if it is contrary to, or less stringent than, the federal laws and regulations which govern narcotic treatment programs.

(b) It is the intent of the Legislature in enacting this section in order to protect the general public and local communities, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of the program, and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking. The department shall define "satisfactory adherence" and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

(c) There is established in the State Treasury a Narcotic Treatment Program Licensing Trust Fund. All licensure fees collected from the providers of narcotic treatment service shall be deposited in this fund. Except as otherwise provided in this section, if funds remain in this fund after appropriation by the Legislature and allocation for the costs associated with narcotic treatment licensure actions and inspection of narcotic treatment programs, a percentage of the excess funds shall be annually rebated to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected during the preceding fiscal year may be held in each trust account to reimburse the department if the actual cost for the licensure and inspection exceed fees collected during a fiscal year.

(d) Notwithstanding any provision of this code or regulations to the contrary, the department shall have sole responsibility and authority for determining if a state narcotic treatment license shall be granted and for administratively establishing the maximum treatment capacity of any license. However, the department shall not increase the capacity of a program unless it determines that the licensee is operating in full compliance with applicable laws and regulations.

SEC. 3. Section 11876.1 is added to the Health and Safety Code, to read:

11876.1. The department shall impose a civil penalty of one hundred dollars ($100) a day for a program that fails to timely submit a corrective action plan, or to timely implement any corrective action when it has been found to not be in compliance with applicable laws and regulations as required in Section 11876.

SEC. 4. Section 11877.6 of the Health and Safety Code is amended to read:

11877.6. The director may deny the application for initial issuance of a license if the applicant, or any partner, officer, director, or 10 percent or greater shareholder:

(a) Fails to meet the qualifications for licensure established by the department pursuant to this article. However, the director may waive any established qualification for licensure of a narcotic treatment program if he or she determines that it is reasonably necessary in the interests of the public health and welfare.

(b) Was previously the holder of a license issued under this article, and the license was revoked and never reissued or was suspended and not reinstated, or the holder failed to adhere to applicable laws and regulations regarding narcotic treatment programs while the license was in effect.

(c) Misrepresented any material fact in the application.

(d) Committed any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another or substantially injure another, and the act is substantially related to the qualification, functions or duties of, or relating to, a narcotic treatment program license.

(e) Was convicted of any crime substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program license.

(f) The director, in considering whether to deny licensure under subdivision (d) or (e), shall determine whether the applicant is rehabilitated after considering all of the following criteria:

(1) The nature and severity of the act or crime.

(2) The time that has elapsed since the commission of the act or crime.

(3) The commission by the applicant of other acts or crimes constituting grounds for denial of the license under this section.

(4) The extent to which the applicant has complied with terms of restitution, probation, parole, or any other sanction or order lawfully imposed against the applicant.

(5) Other evidence of rehabilitation submitted by the applicant.

(g) With respect to any other license issued to an applicant to provide narcotic treatment services, violated any provision of this article or regulations adopted under this article that relate to the health and safety of patients, the local community, or the general public. Violations include, but are not limited to, violations of laws

and regulations applicable to take-home doses of methadone, urinalysis requirements, and security against redistribution of replacement narcotic drugs. In these cases, the department shall deny the application for an initial license unless the department determines that all other licensed narcotic treatment programs maintained by the applicant have corrected all deficiencies and maintained compliance for a minimum of six months.

SEC. 5. Section 11877.7 of the Health and Safety Code is amended to read:

11877.7. (a) The director shall suspend or revoke any license issued under the provisions of this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any violation by the licensee of any provision of this article or regulations adopted under this article that presents an imminent danger of death or severe harm to any participant of the program or a member of the general public.

(b) The director may suspend or revoke any license issued under this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this article:

(1) Violation by the licensee of any laws or regulations of the United States Food and Drug Administration or the United States Department of Justice, Drug Enforcement Administration which are applicable to narcotic treatment programs.

(2) Any violation that relates to the operation or maintenance of the program that has an immediate relationship to the physical health, mental health, or safety of the program participants or general public.

(3) Aiding, abetting, or permitting the violation of, or any repeated violation of, any of the provisions set forth in subdivision (a) or in paragraph (1) or (2).

(4) Conduct in the operation of a narcotic treatment program which is inimical to the health, welfare, or safety of either an individual in, or receiving services from, the program, the local community, or the people of the State of California.

(5) The conviction of the licensee, or any partner, officer, director, or 10 percent or greater shareholder, at any time during licensure, of a crime substantially related to the qualifications, functions or duties of, or relating to, a narcotic treatment program licensee.

(6) The commission by the licensee, or any partner, officer, director, or 10 percent or greater shareholder, at any time during licensure, of any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another, or substantially to injure another and which act is substantially related to the qualifications, functions or duties of, or relating to, a narcotic treatment program licensee.

(7) Diversion of narcotic drugs. A program's failure to maintain a narcotic drug reconciliation system that accounts for all incoming

and outgoing narcotic drugs, as required by departmental or federal regulations, shall create a rebuttable presumption that narcotic drugs are being diverted.

(8) Misrepresentation of any material fact in obtaining the narcotic treatment program license.

(9) Failure to comply with a department order to cease admitting patients or to cease providing patients with take-home dosages of replacement narcotic drugs.

(10) Failure to pay any civil penalty assessed pursuant to paragraph (3) of subdivision (a) of Section 11877.14 where the penalty has become final, unless payment arrangements acceptable to the department have been made.

(c) Prior to issuing an order pursuant to this section, the director shall ensure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in an effort to ensure that patient care is not impacted adversely by an order issued pursuant to this section.

SEC. 6. Section 11877.8 of the Health and Safety Code is amended to read:

11877.8. (a) The department shall cease review of an application for a license if:

(1) An application for a license indicates, or the department determines during the application inspection process, that the applicant was issued a license under this article and the prior license was revoked within the preceding two years. The department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) An application for a license indicates, or the department determines during the application inspection process, that the applicant was denied a license or had a license suspended under this article within the preceding year. The department shall cease any further review of the application until one year has elapsed from the date of the denial or suspension.

(b) The department may cease review of an application for license renewal if either of the following occur:

(1) The applicant has not paid the required license fee.

(2) The county in which the licensee is located certifies to the department's satisfaction that there is no need for the narcotic treatment program because of a substantial decline in medically qualified narcotic treatment patients in the licensee's catchment area, or clearly demonstrates that other applicants for licensure can provide more efficient, cost-effective and sufficient narcotic treatment services in the catchment area, or that the license should not be renewed due to one of the grounds which are enumerated in Section 11877.7.

(c) Upon cessation of review, the license shall be permitted to expire by its own terms. However, if the licensee subsequently

submits the items, the absence of which led to the cessation of review, the department may reinstate the license.

(d) Cessation of review shall not constitute a denial of the application for purposes of Sections 11877.6 and 11877.7.

SEC. 7. Section 11877.14 of the Health and Safety Code is amended to read:

11877.14. (a) (1) The director shall, in addition to any other remedy, issue an order that prohibits a narcotic treatment program from admitting new patients or from providing patients with take-home dosages of a replacement narcotic drug when the director determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that a program has done any of the following:

(A) Failed to provide adequate security measures over its narcotic drug supply as agreed in the program's approved protocol.

(B) Failed to maintain a narcotic drug reconciliation system which accounts for all incoming and outgoing narcotic drugs.

(C) Diverted narcotic drugs.

(D) Repeatedly violated one or more departmental or federal regulations governing narcotic treatment programs, which violations may subject, or may have subjected a patient to a health or life-endangering situation.

(E) Repeatedly violated one or more departmental or federal regulations governing the provisions of take-home medication.

(F) Operated above combined licensed capacity for maintenance and detoxification programs at a single location. This paragraph shall not become operative until department regulations on narcotic treatment programs are revised to identify specific requirements in conjunction with this paragraph.

(2) (A) The order becomes effective when the department serves the program with a copy of the order. The order shall state the deficiencies forming the basis for the order and shall state the corrective action required for the department to vacate the order. The order, as it pertains to subparagraph (F) only, shall automatically be vacated when the department receives the program's written notification that licensed capacity has been achieved. If the order is issued pursuant to subparagraph (A), (B), (C), (D), or (E), the department shall vacate the order when the program submits a corrective action plan that reasonably addresses the deficiency or substantially conforms to the required action set out in the order.

(B) The department shall notify the program that the corrective action is accepted or rejected within 10 working days after receipt of the plan. If the department rejects the corrective action plan, it shall detail its reason in writing. The department order is vacated when the department either accepts a corrective action plan and ensures substantial conformity with the required action set out in the order or fails to reject a plan within 10 working days after receipt of the plan.

(3) In addition to any other remedies, a failure of the program to comply with the order of the department under this subdivision shall give rise to a civil penalty of five hundred dollars ($500) a day for each day that the order is violated.

(4) All civil penalties collected by the department under paragraph (3) shall be deposited in the Narcotic Treatment Program Licensing Trust Fund, and shall be used to offset the department's costs associated with collecting the civil penalties, or associated with any civil, administrative, or criminal action against the program when appropriated for this purpose.

(b) (1) The director may, in addition to any other remedy, issue an order temporarily suspending a narcotic treatment program license prior to any administrative hearing for the reasons stated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) when the department determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that the action is necessary to protect patients of the program from any substantial threat to their health or safety, or to protect the health or safety of the local community or the people of the State of California. Prior to issuing the order the director shall assure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in his or her effort to assure that patient care is not impacted adversely by the suspension order.

(2) The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 20 days, exclusive of weekends, after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 20 days after the original hearing has been completed. Failure to cease operating after the department issues an order temporarily suspending the license shall constitute an additional ground for license revocation and shall constitute a violation of Section 11877.6. The department shall suspend the program's license if the hearing outcome is adverse to the license. The department shall notify the program of the license suspension within five days of the director's final decision.

(3) Failure of the licensee to cease operating after the director issues a temporary suspension order under paragraph (1) shall constitute an additional ground for license revocation.

(c) A program may, at any time after it is served with an order, petition the superior court to review the department's issuance of an order or rejection of a corrective action plan.

CHAPTER 718

An act to amend Sections 17180 and 17199.1 of the Education Code, relating to school facilities, and declaring the urgency thereof to take effect immediately.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 17180 of the Education Code is amended to read:

17180. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating district as its agent, by purchase solely from funds provided pursuant to this

chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating district as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, or purchase all or part of any rights to or possibilities regarding funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Section 17070.10) including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from, a participating district for any of the following purposes:

(1) To finance a project or provide working capital. No loan to finance a project shall exceed the total cost of the project, as determined by the participating district and approved by the authority.

(2) To refinance indebtedness incurred by the participating district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this chapter to a participating district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating district of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating districts its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

SEC. 2. Section 17199.1 of the Education Code is amended to read:

17199.1. (a) Any participating district, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance, by the authority, of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may: (1) sell to the authority all or part of any rights to or possibilities regarding funding for school facilities approved by the State Allocation Board pursuant to Chapter 12.5 (commencing with Sec. 17070.10) including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board; (2) issue bonds to the authority; or (3) borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, in each case at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other transfer, assignment, payment, security, default, remedy, and other terms or provisions as may be specified in the sale of rights agreement or the bonds of the participating district or a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating district, subject to the following conditions:

(A) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district funds which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the district.

(B) In computing the maximum amount which may be borrowed in any fiscal year pursuant to subparagraph (A), the district may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(C) A participating district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan, including interest, within 15 months of the loan date.

(D) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash-flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating school district must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Notwithstanding Sections 700, 703, and 1045 of the Civil Code, the rights and possibilities that a participating district may have or obtain in the future to unfunded school facility approvals of the State Allocation Board pursuant to Chapter 12.5 (commencing with Sec. 17070.10), shall constitute property for all purposes and may be transferred as provided in subdivision (a). In the case of any transfer or assignment of rights or possibilities relating to funds for which bonds have been approved by the voters but are not yet available, the transfer or assignment shall be approved by resolution of the State Allocation Board prior to becoming effective.

(c) Any participating district may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any participating district or districts may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, installment sale, lease, or other agreement of the district.

(d) A school district may by resolution authorize any county or city board of education or superintendent of schools, and a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent on behalf of the school district or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district or community college district, to the same extent as if duly authorized, executed, and delivered by the school district or community college district.

(e) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the sale or transfer of any rights to or possibilities regarding funds for school facilities approved by the State Allocation Board including amounts apportioned and funded and amounts approved but not yet funded to, issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the transfer of any rights to or possibilities regarding funds for any unfunded school facilities approvals of the State Allocation Board, including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board or the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district or community college district, or by a county or city board of education or superintendent of schools or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges.

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

In order to meet the school facility needs of pupils and school districts, it is necessary that this act take effect immediately.

CHAPTER 719

An act to amend Sections 1337.3 and 1337.6 of, and to add Section 1338.2 to, the Health and Safety Code, relating to care facilities.

[Approved by Governor October 6, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Patient needs in long-term health care facilities have changed dramatically in the last ten years with many patients requiring more intensive medical care for shorter periods of time.

(b) The nurse assistant training program has not been reviewed or revised for more than ten years to address the changing needs of patient care in today's long-term health care facilities.

(c) There is currently a shortage of 10,000 certified nurse assistants available for hire and an inadequate number of active training centers in the state to respond to this need, especially in rural areas.

SEC. 2. It is the intent of the Legislature that training center requirements be revised to provide greater consistency among training programs and greater access for individuals to receive college credits. It is the further intent of the Legislature that the State Department of Health Services convene a work group to provide recommendations to the department on addressing the availability of qualified certified nurse assistants for hire in the state.

SEC. 3. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. The state department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the state department shall examine each training center's trainees' competency test passage rate, and require each program to maintain

an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the state department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The state department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or medicaid programs.

(2) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting, as well as at least 100 hours supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(f) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(g) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 3.5. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a representative sample of training programs. The state department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the state department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the state department determines that any training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The state department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or medicaid programs.

(2) (A) A certification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the certification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse. The 100 hours shall consist of at least four hours of supervised training to address the special needs of persons with developmental and mental disorders, including mental retardation, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989. This subdivision shall become inoperative on January 1, 2005.

(e) (1) On or before January 1, 2003, the state department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(A) Develop a standardized curriculum for approved training programs for certified nurse assistants and criteria for approving training programs, that includes program content for orientation, training, in-service programs, and the examination for testing knowledge and skills related to basic patient care services.

(B) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services and that shall be consistent with the standardized curriculum developed pursuant to subparagraph (A).

(C) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job postcertification hours to educational credits.

(2) On or before January 1, 2004, the group established for purposes of paragraph (1) shall recommend, and the department shall adopt, regulation changes necessary to provide for the certification training programs.

(f) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of college credit. The state department shall make this information available to all training programs in the state.

SEC. 4. Section 1337.6 of the Health and Safety Code is amended to read:

1337.6. (a) Certificates issued under this article shall be renewed every two years and renewal shall be conditional upon the occurrence of all of the following:

(1) The certificate holder submitting documentation of completion of 48 hours of in-service training every two years obtained through an approved training program or taught by a director of staff development for a licensed skilled nursing or intermediate care facility that has been approved by the state department, or by individuals or programs approved by the state department. At least 12 of the 48 hours of in-service training shall be completed in each of the two years.

(2) The certificate holder obtaining a criminal record clearance.

(b) Certificates issued under this article shall expire on the certificate holder's birthday. If the certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article.

(c) To renew an unexpired certificate, the certificate holder shall, on or before the certificate expiration date, apply for renewal on a form provided by the state department, pay the renewal fee prescribed by this article, and submit documentation of the required in-service training.

(d) The state department shall give written notice to a certificate holder 90 days in advance of the renewal date and, 90 days in advance of the expiration of the fourth year that a renewal fee has not been paid, and shall give written notice informing the certificate holder, in general terms, of the provisions of this article. Nonreceipt of the

renewal notice does not relieve the certificate holder of the obligation to make a timely renewal. Failure to make a timely renewal shall result in expiration of the certificate.

(e) Except as otherwise provided in this article, an expired certificate may be renewed at any time within two years after its expiration on the filing of an application for renewal on a form prescribed by the state department, and payment of the renewal fee in effect on the date the application is filed, and documentation of the required in-service education.

Renewal under this article shall be effective on the date on which the application is filed, on the date when the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect until the date provided for in this article, when it shall expire if it is not again renewed.

(f) If a certified nurse assistant applies for renewal more than two years after the expiration, the certified nurse assistant shall complete an approved 75-hour competency evaluation training program and competency evaluation program. If the certified nurse assistant demonstrates in writing to the state department's satisfaction why the certified nurse assistant cannot pay the delinquency fee, then the state department on a case-by-case basis shall consider waiving the delinquency fee. A suspended certificate is subject to expiration and shall be renewed as provided in this article, but this renewal does not entitle the certificate holder, while the certificate remains suspended, and, until it is reinstated, to engage in the certified activity, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(g) A revoked certificate is subject to expiration as provided in this article, but it cannot be renewed. If reinstatement of the certificate is approved by the state department, the certificate holder, as a condition precedent to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the date the application for reinstatement is filed, plus the delinquency fee, if any, accrued at the time of its revocation.

(h) Except as provided in subdivision (i), a certificate that is not renewed within four years after its expiration cannot be renewed, restored, reissued, or reinstated except upon completion of a certification program unless deemed otherwise by the state department if all of the following conditions are met:

(1) No fact, circumstance, or condition exists that, if the certificate was issued, would justify its revocation or suspension.

(2) The person pays the application fee provided for by this article.

(3) The person takes and passes any examination that may be required of an applicant for a new certificate at that time, that shall be given by an approved provider of a certification training program.

(i) A certified nurse assistant whose certificate has expired after two years may have his or her certificate renewed if he or she pays a training application fee, completes 75 hours in an approved competency evaluation training program, passes a competency test, and obtains a criminal background clearance prior to the renewal. The department shall develop a training program for these previously certified individuals.

(j) Certificate holders shall notify the department within 60 days of any change of address. Any notice sent by the department shall be effective if mailed to the current address filed with the department.

(k) Certificate holders that have been certified as both nurse assistants pursuant to this article and home health aides pursuant to Chapter 8 (commencing with Section 1725) of Division 2 shall renew their certificates at the same time on one application.

SEC. 5. Section 1338.2 is added to the Health and Safety Code, to read:

1338.2. (a) The state department shall convene a work group to develop recommendations to the department on ways to expand the availability of training programs and certified nurse assistants available for hire in the state. The work group shall investigate, but not be limited to investigating, all of the following:

(1) Work-based learning programs for students in the regional occupational programs in the state.

(2) Utilization of apprenticeships.

(3) Promotional programs for training centers and certified nurse assistant jobs.

(4) Utilization of expanded data resources.

(b) The recommendations required by subdivision (a) shall be submitted by the work group to the state department on or before July 1, 2001.

(c) The work group shall consist of, but not be limited to, all of the following:

(1) A representative from the State Department of Education.

(2) Nurse-Assistant training center representatives.

(3) A director of staff development for a long-term health care facility.

(4) A publisher of nurse assistant training and competency curricula.

(5) An industry representative.

(6) A currently certified nurse assistant.

(7) A consumer representative.

(8) A labor union representative.

(9) A representative of the American Red Cross.

(10) The Chancellor of the California Community Colleges.

(11) A representative from the Office of Statewide Health Planning and Development.

(12) A registered nurse and a licensed vocational nurse, both of whom are currently providing long-term care nursing services.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 1337.3 of the Health and Safety Code proposed by both this bill and AB 1160. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 1337.3 of the Health and Safety Code, and (3) this bill is enacted after AB 1160, in which case Section 3 of this bill shall not become operative.

CHAPTER 720

An act to add Title 13.7 (commencing with Section 2870) to Part 4 of Division 3 of the Civil Code and to add Title 11.65 (commencing with Section 1776) to Part 3 of the Code of Civil Procedure, relating to resolution of claims.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known and may be cited as the "Fair Insurance Responsibility Act of 2000" or as "FAIR."

SEC. 2. Title 13.7 (commencing with Section 2870) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 13.7. OBLIGATION TO SETTLE INSURANCE CLAIMS FAIRLY

2870. (a) For purposes of this title, the following definitions shall apply:

(1) "Third-party claimant" or "claimant" shall mean each person seeking recovery of benefits against an insured under a liability insurance policy or a self-funded liability protection program, fund, or plan, whether for personal injury or wrongful death, or other economic loss, or both including, without limitation, damages resulting from loss of consortium or loss of care, comfort, society and the like resulting from wrongful death.

(2) "Insured" shall mean a person or entity named as an insured in a liability insurance policy or a private self-funded liability protection program, fund, or plan; a person or entity who is identified as an additional insured under a liability insurance policy or a private self-funded liability protection program, fund, or plan; a person or entity who is an additional insured under the definitions of insured persons set forth in a liability insurance policy or a private self-funded liability protection program, fund, or plan; a person or entity who is defined, by law, as an insured under a liability insurance policy or a private self-funded liability protection program, fund, or plan; or

cooperative corporations or interindemnity arrangements provided for under Section 1280.7 of the Insurance Code.

(3) "Insurer" shall include any liability insurer licensed pursuant to, or subject to regulation under, the Insurance Code who provides liability coverage to an insured against whom the third-party claimant makes a claim for personal injury, wrongful death, or other economic loss, and the third-party administrator of any private self-funded liability protection program, fund, or plan; or cooperative corporations or interindemnity arrangements provided for under Section 1280.7 of the Insurance Code. However, "insurer" does not include the self-funded liability protection program, fund, or plan, itself, an insurer named as the insurer under a policy of workers' compensation insurance, nor a self-insured public entity, a private administrator for a public entity, or a public entity insured by a private insurer or carrier. For purposes of this section, "public entity" has the meaning set forth in Section 811.2 of the Government Code.

2871. (a) Every insurer, as defined in paragraph (3) of subdivision (a) of Section 2870, doing business in the State of California shall act in good faith toward and deal fairly with third-party claimants. A third-party claimant may bring an action against an insurer doing business in the State of California to recover damages, including general, special, and exemplary damages, for commission of any unfair claims settlement practice specified in subdivision (h) of Section 790.03 of the Insurance Code as it relates to a third-party claimant.

(b) A third-party claimant shall not be entitled to assert the remedies set forth in subdivision (a) unless the third-party claimant (1) obtains in the underlying action a final judgment after trial, a judgment after default, or an arbitration award arising from a contractual predispute binding arbitration clause or agreement, and (2) the third-party claimant makes a written demand by certified mail to settle the claim in the underlying action, and the claimant's judgment or arbitration award in that prior proceeding exceeded the amount of the final written demand on all claims by the third-party claimant made before the trial, entry of default or arbitration listed above. A final written demand sent by certified mail may not exceed the applicable policy limits and shall be deemed rejected if not responded to within 30 days of receipt of the final written demand. Subject to subdivision (h) of Section 790.03 of the Insurance Code, the verdict's amount may be considered as evidence of bad faith, but shall not be the sole consideration.

(c) The remedies set forth in this title shall apply to any insurer who violates the standards set forth in subdivision (a) in its handling, processing, or settlement of the claims made by a third-party claimant under the insured's insurance protection.

(d) A professional liability insurer is not liable under this title if all the following conditions apply:

(1) The consent of the policyholder to settlement is a prerequisite to settlement under the terms of the insurance policy or by statute.

(2) The insurance company has assessed the case against the policyholder as to potential liability and damages known at that time and has fully informed the policyholder of that assessment.

(3) The policyholder's refusal to consent is not based on intentionally erroneous or misleading information provided by the insurer.

(e) A person injured in an accident arising out of the operation or use of a motor vehicle, who at the time of the accident was operating a motor vehicle in violation of Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense, may not assert a cause of action under this section.

(f) Any time period within which an action must be commenced pursuant to any applicable statute of limitations shall not begin until the underlying claim has been resolved through a final judgment. In the event of an appeal by either party, resolution of the appeal shall be a prerequisite to a claim under this title.

(g) Nothing in this title shall abrogate or limit any theory of liability or remedy otherwise available at law including, but not limited to, tort remedies for the breach of implied covenant and fair dealing or any theory of liability or remedy based on Comunale v. Traders & General Ins. Co. (1958) 50 Cal.2d 654 or Crisci v. Security Ins. Co. (1967) 66 Cal.2d 425. Nothing in this section shall relieve an insurer of its obligation of good faith and fair dealing to its own insured. However, the insurer cannot wrongfully use its obligation to its own insured to violate its duties under this section.

(h) The provisions of this title shall apply, prospectively, to events or accidents covered by the applicable insurance policy that occur on or after January 1, 2000.

SEC. 3. Title 11.65 (commencing with Section 1776) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 11.65. ALTERNATIVE DISPUTE RESOLUTION ACT

1776. For the purposes of this title, the following definitions apply:

(a) "Claimant" means a person defined in paragraph (1) of subdivision (a) of Section 2870 of the Civil Code.

(b) "Insurer" shall include any liability insurer licensed pursuant to or subject to regulation under the Insurance Code, any private self-funded liability protection program, fund or plan, and any person or entity meeting the Vehicle Code definition of a permissible self-insured. However, "insurer" does not include a self-insured public entity, a private administrator for a public entity, or a public entity insured by a private insurer or carrier. For purposes of this section, "public entity" has the meaning set forth in Section 811.2 of the Government Code.

1777. (a) In a claim where the amount in controversy is for either a dollar amount that does not exceed fifty thousand dollars ($50,000), or is within policy limits, exclusive of applicable uninsured or underinsured motorist coverage, if the policy limits do not exceed fifty thousand dollars ($50,000), whichever is less, a claimant who is represented by counsel may request arbitration pursuant to this title.

(b) Notwithstanding subdivision (b) of Section 2017, prior to a request for arbitration, a claimant may demand and obtain insurance coverage policy limits information concerning all applicable, and potentially applicable, policies of insurance, to decide whether to participate in arbitration as set forth in this title. The insurer shall respond within 10 days and verify in writing that the information about coverage and policies is true and correct. An insurer that releases such information shall not be subject to civil liability to the insured or any other insurer for release of the policy limits information.

(c) An insurer may request arbitration under this title where the claimant is represented by counsel under any of the following conditions:

(1) If a claimant makes a settlement demand against all responsible or potentially responsible persons or entities that does not exceed fifty thousand dollars ($50,000) in total, and the arbitration request is made within 90 days of the settlement demand.

(2) In any action in which the policy limits applicable to the claimant do not exceed fifty thousand dollars ($50,000), provided that the request for arbitration is made not later than 150 days after the service of the complaint.

(3) Subject to paragraphs (1) and (2), in an action involving more than one responsible party, an insurer may request arbitration under this title if all parties agree to arbitration or the insurer offers to settle the action for policy limits.

(d) The request for arbitration shall be in writing and sent by certified mail.

(e) (1) Within 30 days after receipt of a request for arbitration, the insurer or claimant shall respond to the request in writing, sent by certified mail, return receipt requested.

(2) The request shall be deemed rejected if not responded to within 30 days, unless the parties stipulate in writing to an extension of time.

(f) Nothing in this section shall relieve an insurer of its obligation of good faith and fair dealing to its own insured.

(g) An arbitration award pursuant to this section shall not exceed the available policy limits and shall not include damages that are not covered by the applicable insurance policies.

(h) A claimant or insurer requesting or agreeing to arbitration under this section shall at the same time send by certified mail a copy of each offer or agreement to arbitrate to all claimants and all insurers involved in the claim. Offers and agreements made by counsel under

this section shall be deemed to be made with the authority of all clients represented by that counsel. The arbitration of all claims under this title shall be pursuant to a written arbitration agreement.

1778. If the insurer agrees to submit a claim to arbitration under Section 1777 the insurer shall be conclusively presumed to have complied with the duties under subdivision (a) of Section 2871 of the Civil Code.

1779. (a) Upon a showing of good cause in a petition before the court having jurisdiction over the amount in controversy, either side may request removal from arbitration under this title and to commence or continue a civil action, upon a showing of any of the following:

(1) Either party discovers new information regarding insurance coverage that creates aggregate coverage for the claim in excess of fifty thousand dollars ($50,000).

(2) A change in the nature or extent of the claimant's injury or damages, which, despite reasonable inquiry, was not discovered prior to the acceptance of the offer to engage in alternative dispute resolution, and causes the claimant or attorney to believe that the reasonable value of the claim will exceed fifty thousand dollars ($50,000).

(3) A party discovers new, additional, potentially responsible persons or entities who are not parties to the arbitration.

(4) The insurer discovers evidence that the claim is in violation of Section 550 of the Penal Code. The insurer shall document the basis for its finding and provide the information to the court. The court shall make the information available to the claimant or his or her counsel, if represented, unless the court determines that releasing the information would substantially impede the investigation or future prosecution of the claim for fraud.

(5) A change of law affects the remedies available to a claimant, or a change in law expands or contracts the claimant's legal right to recover.

(6) The interests of justice support permitting a party to commence a civil action.

(7) A party unreasonably interferes with the completion of the arbitration.

(b) Within 60 days of discovery of one of the conditions outlined in subdivision (a), and before commencement of the arbitration, the party seeking to remove the claim from arbitration under this title shall petition the court having jurisdiction over the amount in controversy, establishing good cause for the request.

(c) If a court finds good cause pursuant to a petition filed by a claimant to remove the claim from arbitration under subdivision (a), the presumption of good faith under Section 1778 shall not apply if the good cause arises from a misrepresentation, error or unreasonable interference in the conduct of the arbitration by the insurer.

(d) If the insurer removes the claim from arbitration pursuant to this title, the presumption of good faith under Section 1778 does not apply.

1780. (a) Any applicable period of limitations shall be tolled from the date of receipt of a request to participate in arbitration until 30 days after the insurer responds to the offer. If the request for arbitration is accepted, the period is tolled until settlement, satisfaction of judgment, or 30 days after a court order to remove a claim from arbitration under Section 1779.

(b) Any applicable case management rules are suspended upon agreement of the parties to arbitrate a claim under this title. Additionally, an agreement to participate in arbitration under this title relieves the parties of any obligation to participate in court-ordered arbitration or mediation.

1781. Except as otherwise provided by this title, arbitration shall be conducted under the same procedures as are applicable to other arbitration agreements under Title 9 (commencing with Section 1280).

1782. The following additional and supplemental provisions govern arbitration under this title:

(a) The provisions of Section 1987 shall govern attendance of parties at arbitration.

(b) Arbitrators shall be paid at the prevailing rate for judicial arbitrators. The cost of the arbitrator will be borne equally between the insurers and the claimants. The obligation of the parties for the arbitrator's fee does not include preparation time, travel time, and postarbitration time, unless the parties agree otherwise.

(c) The parties shall select a single neutral arbitrator pursuant to Section 1281.6. Unless the parties agree otherwise, the arbitrator shall be a retired judge.

(d) The parties to the arbitration shall pay an arbitration filling fee of two hundred dollars ($200). The fee shall be borne in equal portions by each party to the arbitration.

(e) If the parties cannot agree on a date to commence arbitration, the arbitrator shall set a date convenient to the parties.

(f) Disputes arising regarding discovery shall be resolved by motion before the arbitrator. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue for those purposes.

(g) No party may introduce new or different information from that provided under subdivision (f) at the arbitration unless it is provided to the other side at least 30 days before the arbitration except when such evidence is offered solely for impeachment. Upon a showing of good cause under Section 9 of the Standards for Judicial Administration, the arbitrator may grant a continuance to permit the introduction of the new information.

(h) Each party shall exchange a list of all witnesses and all exhibits no later than 20 days before the arbitration. Witnesses and exhibits

not listed shall not be considered or relied upon by the arbitrator unless offered solely for impeachment.

(i) If more than one person or insurer may be liable for the injury, and if the actions against each are subject to this title, the arbitration proceedings with respect to each may be consolidated by agreement of the parties.

(j) The rules of evidence and rules for conduct of hearing set forth in Rules 1613 and 1614 of the California Rules of Court, shall apply to the arbitration.

(k) The arbitrator may continue the arbitration pursuant to Section 9 of the Standards of Judicial Administration.

1783. (a) The award shall be binding on all parties and upon the insurer and shall resolve all disputes between the parties, and may be reviewed only for the reasons set forth in Section 1286.2.

(b) The insurer shall satisfy the arbitration award within 20 days of conclusion of any postresolution motions or settlement. Interest shall accrue at the legal rate thereafter.

1784. A claimant and an insurer may agree in writing to submit any claim for personal injury or wrongful death to arbitration pursuant to this title, provided that the notice requirements set forth in Section 1777 are met. The agreement to, and subsequent participation in, binding arbitration by the parties provides the protections set forth in Section 1778.

CHAPTER 721

An act to amend Sections 2870 and 2871 of the Civil Code, to amend Section 1063.1 of, and to add Section 1872.91 to, the Insurance Code, and to amend Section 3702.8 of the Labor Code, relating to insurance.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds that public employers are liable for the payment of workers' compensation benefits in substantial amounts. These amounts are owed to current or former county employees who have previously been injured on the job, and to others in accordance with applicable law. The Legislature finds that new liabilities are created every year, as additional persons become eligible for workers' compensation benefits.

SEC. 2. Section 2870 of the Civil Code, as added by Senate Bill 1237 of the 1999–2000 Regular Session, is amended to read:

2870. (a) For purposes of this title, the following definitions shall apply:

(1) "Third-party claimant" or "claimant" shall mean each individual seeking recovery against an insured under a liability insurance policy or a self-funded liability protection program, fund, or plan, for bodily injury; wrongful death; or property damage resulting from an incident involving a motor vehicle; including, without limitation, damages resulting from loss of consortium or loss of care, comfort, society and the like resulting from wrongful death.

(2) "Insured" shall mean a natural person or entity named as an insured in a liability insurance policy or a private self-funded liability protection program, fund, or plan; a natural person or entity who is identified as an additional insured under a liability insurance policy or a private self-funded liability protection program, fund, or plan; a natural person or entity who is an additional insured under the definitions of insured persons set forth in a liability insurance policy or a private self-funded liability protection program, fund, or plan; a natural person or entity who is defined, by law, as an insured under a liability insurance policy or a private self-funded liability protection program, fund, or plan; or cooperative corporations or interindemnity arrangements provided for under Section 1280.7 of the Insurance Code.

(3) "Insurer" shall mean any insurer licensed pursuant to, or subject to regulation under, the Insurance Code which provides liability insurance to an insured against whom a third-party claimant makes a claim for bodily injury, or for property damage resulting from an incident involving a motor vehicle, and the third-party administrator of any private self-funded liability protection program, fund, or plan; or cooperative corporations or interindemnity arrangements provided for under Section 1280.7 of the Insurance Code. However, "insurer" does not include the self-funded liability protection program, fund, or plan, itself, an insurer named as the insurer under a policy of workers' compensation insurance, nor a self-insured public entity, a private administrator for a public entity, or a public entity insured by a private insurer or carrier. For purposes of this section, "public entity" has the meaning set forth in Section 811.2 of the Government Code.

(4) "Liability insurance" shall mean that portion of a personal or commercial insurance policy or a private self-funded liability protection program, fund or plan, which provides liability coverage for bodily injury, or for property damage resulting from an incident involving a motor vehicle.

(5) "Bodily injury" shall mean actual physical injury, sickness, or disease sustained by a person, including death therefrom. "Bodily injury" shall not mean (a) emotional distress, of any kind, resulting from economic loss, or (b) emotional distress resulting from a cause other than economic loss unless accompanied by actual physical manifestations of such emotional distress.

SEC. 3. Section 2871 of the Civil Code, as added by Senate Bill 1237 of the 1999–2000 Regular Session, is amended to read:

2871. (a) (1) Every insurer, as defined in paragraph (3) of subdivision (a) of Section 2870, doing business in the State of California shall act in good faith toward and deal fairly with third-party claimants. A third-party claimant may bring an action against an insurer doing business in the State of California to recover damages, including general, special, and exemplary damages, for commission of any unfair claims settlement practice specified in paragraph (1), (2), (3), (5), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (h) of Section 790.03 of the Insurance Code as it relates to a third-party claimant.

(2) (A) In considering a third-party claim an insurer shall make an honest, intelligent and knowledgeable evaluation of the claim on its merits. However, an insurer shall not be considered to have violated its obligation to act in good faith and deal fairly with a third-party claimant because of the insurer's honest mistake in judgment in connection with the settlement of a claim.

(B) The fact that an insurer did not settle a claim is not necessarily proof of bad faith.

(b) A third-party claimant shall not be entitled to assert the remedies set forth in subdivision (a) unless the third-party claimant (1) obtains in the underlying action a final judgment after trial, a judgment after default, or an arbitration award arising from a contractual predispute binding arbitration clause or agreement, and (2) the third-party claimant makes a written demand by certified mail to settle the claim in the underlying action, and the claimant's judgment or arbitration award in that prior proceeding exceeded the amount of the final written demand on all claims by the third-party claimant made before the trial, entry of default or arbitration listed above. The final written demand sent by certified mail may not exceed the applicable policy limits and shall be deemed rejected if not responded to within 30 days of receipt of the final written demand.

(c) The remedies set forth in this title shall apply to any insurer who violates the standards set forth in subdivision (a) in its handling, processing, or settlement of the claims made by a third-party claimant under the insured's insurance protection.

(d) A professional liability insurer for medical, health care, or legal malpractice is not liable under this title if both of the following conditions apply:

(1) The consent of the policyholder to settlement is a prerequisite to settlement.

(2) The policyholder withholds consent to settlement.

(e) A person injured in an accident arising out of the operation or use of a motor vehicle, who at the time of the accident was operating a motor vehicle in violation of Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense, may not assert a cause of action under this section.

(f) Any time period within which an action must be commenced pursuant to any applicable statute of limitations shall not begin until the underlying claim has been resolved through a final judgment. In the event of an appeal by either party, resolution of the appeal shall be a prerequisite to a claim under this title.

(g) Nothing in this title shall abrogate or limit any theory of liability or remedy otherwise available at law including, but not limited to, tort remedies for the breach of implied covenant and fair dealing or any theory of liability or remedy based on Comunale v. Traders & General Ins. Co. (1958) 50 Cal.2d 654 or Crisci v. Security Ins. Co. (1967) 66 Cal.2d 425.

(h) The provisions of this title are prospective and are only applicable as follows:

(1) To accidents, events, occurrences, or losses that occur on or after January 1, 2000.

(2) To conduct by any insurer, its agents or employees concerning accidents, events, occurrences, or losses that occur on or after January 1, 2000.

SEC. 4. Section 1778 of the Code of Civil Procedure, as added by Senate Bill 1237 of the 1999–2000 Regular Session, is amended to read:

1778. If the insurer requests or agrees to submit a claim to arbitration under Section 1777 the insurer shall be conclusively presumed to have complied with the duties under subdivision (a) of Section 2871 of the Civil Code.

SEC. 5. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer against which an order of liquidation or receivership with a finding of insolvency has been entered by a court of competent jurisdiction.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (i) imposed by law and within the coverage of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to the date coverage under the policy terminated and prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (vii) in the case of other classes of insurance if the claimant or insured is a resident of this state

at the time of the insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) "Covered claims" also include the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (i) to (vii), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(i) Life, annuity, health, or disability insurance.

(ii) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(iii) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(iv) Credit insurance.

(v) Title insurance.

(vi) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(vii) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers' compensation policy issued pursuant to subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request, or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(5) "Covered claims" does not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for

contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

An insurer, insurance pool, or underwriting association may not maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer's policy. In those claims or legal actions, the insured of the insolvent insurer is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars ($100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of any claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include any amount awarded as punitive or exemplary damages.

(9) "Covered claims" does not include (i) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (ii) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her assignee as the person entitled thereto under a premium finance agreement as defined in Section 673 and entered into prior to insolvency, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and does not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" does not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to Sections 11802 and 11803.

(11) "Covered claims" does not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(12) "Covered claims" does not include surplus deposits of subscribers as defined in Section 1374.1.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(e) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under

common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(f) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by showing that control does not in fact exist.

(g) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(h) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(i) "Unearned premium" means that portion of a premium that had not been earned because of the cancellation of the insolvent insurer's policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include any amount sought as return of a premium under any policy providing retroactive insurance of a known loss or return of a premium under any retrospectively rated policy or a policy subject to a contingent surcharge or any policy in which the final determination of the premium cost is computed after expiration of the policy and is calculated on the basis of actual loss experience during the policy period.

SEC. 6. Section 1872.91 is added to the Insurance Code, to read:

1872.91. (a) The State Auditor shall prepare a report analyzing and evaluating the effect of the Fair Insurance Responsibility Act of 2000 (FAIR) on California insurance claims practices and rates. The report shall identify changes in claim practices and patterns caused by the enactment of FAIR. The report shall be delivered to the

Governor and the Legislature on or before January 1, 2005. The report shall be funded from existing resources of the State Auditor. The report shall include, but not be limited to, an analysis of the following:

(1) The number of complaints to the Department of Insurance regarding unfair claims settlement practices.

(2) The number and type of actions taken by the Department of Insurance in response to those complaints.

(3) The number of cases in which the parties enter into voluntary binding arbitration under Title 11.65 (commencing with Section 1776) of Part 3 of the Code of Civil Procedure, and the disposition of those cases, including whether the use of retired judges as arbitrators has provided an adequate pool of arbitrators.

(4) The number of cases that proceed to trial and the disposition of these cases, including appeals.

(5) The number of actions filed under Title 13.7 (commencing with Section 2870) of Part 4 of Division 3 of the Civil Code, and the disposition of these cases, including appeals.

(6) An analysis of the disposition of cases of third-party claimants who are not eligible to file a bad faith action and whether these claimants have been subject to unfair claims settlement practices.

(b) As part of the study, the State Auditor shall conduct a statistical closed claim study to compare auto insurance claims closed in 1999 and 2003. The study shall provide at least the same kinds of information as the August 1990 study, "Automobile Claims, A study of Closed Claim Payments Patterns in California," prepared by the Statistical Analysis Bureau. The Insurance Commissioner shall cooperate with the State Auditor in this study, and shall provide information requested by the State Auditor. The study shall identify the component costs of claims, including, but not limited to, the items listed in subdivision (c) by coverage for major settlement methods, including each of the following:

(1) Closed without payment, no litigation.

(2) Closed with payment, no litigation.

(3) Closed without payment, litigated.

(4) Closed with payment after mediation.

(5) Closed with payment after judicial arbitration.

(6) Closed with payment after voluntary binding arbitration.

(7) Closed with payment after trial, including appeals.

(c) The part of the study required in subdivision (b) shall include the following items, shown separately by coverage:

(1) Number of claims.

(2) Amount of losses or claim payouts, including both economic damages shown separately by category and noneconomic damages.

(3) Punitive damages or bad faith awards, when applicable.

(4) Defense costs.

(5) Other claim or loss adjustment expenses.

(6) Time period between filing of claim and final settlement.

SEC. 7. Section 3702.8 of the Labor Code is amended to read:

3702.8. (a) Employers who have ceased to be self-insured employers shall discharge their continuing obligations to secure the payment of workers' compensation that accrued during the period of self-insurance, for purposes of Sections 3700, 3700.5, 3706, and 3715, and shall comply with all of the following obligations of current certificate holders:

(1) Filing annual reports as deemed necessary by the director to carry out the requirements of this chapter.

(2) In the case of a private employer, depositing and maintaining a security deposit for accrued liability for the payment of any workers' compensation that may become due, pursuant to subdivision (b) of Section 3700 and Section 3701, except as provided in subdivision (c).

(3) Paying within 30 days all assessments of which notice is sent, pursuant to subdivision (b) of Section 3745, within 36 months from the last day the employer's certificate of self-insurance was in effect. Assessments shall be based on the benefits paid by the employer during the last full calendar year of self-insurance on claims incurred during that year.

(b) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the director. An appeal from the director's determination shall be taken to the appropriate superior court by petition for writ of mandate.

(c) Notwithstanding subdivision (a), any employer who is currently self-insured or who has ceased to be self-insured may purchase a special excess workers' compensation policy to discharge any or all of the employer's continuing obligations as a self-insurer to pay compensation or to secure the payment of compensation.

(1) The special excess workers' compensation insurance policy shall be issued by an insurer authorized to transact workers' compensation insurance in this state.

(2) Each carrier's special excess workers' compensation policy shall be approved as to form and substance by the Insurance Commissioner, and rates for special excess workers' compensation insurance shall be subject to the filing requirements set forth in Section 11735 of the Insurance Code.

(3) Each special excess workers' compensation insurance policy shall be submitted by the employer to the director. The director shall adopt and publish minimum insurer financial rating standards for companies issuing special excess workers' compensation policies.

(4) Upon acceptance by the director, a special excess workers' compensation policy shall provide coverage for all or any portion of the purchasing employer's claims for compensation arising out of injuries occurring during the period the employer was self-insured in accordance with Sections 3755, 3756, and 3757 of the Labor Code and Sections 11651 and 11654 of the Insurance Code. The director's

acceptance shall discharge the Self-Insurer's Security Fund, without recourse or liability to the Self-Insurer's Security Fund, of any continuing liability for the claims covered by the special excess workers' compensation insurance policy.

(5) For public employers, no security deposit or financial guarantee bond or other security shall be required. The director shall set minimum financial rating standards for insurers issuing special excess workers' compensation policies for public employers.

(d) (1) In order for the special excess workers' compensation insurance policy to discharge the full obligations of a private employer to maintain a security deposit with the director for the payment of self-insured claims, applicable to the period to be covered by the policy, the special excess policy shall provide coverage for all claims for compensation arising out of that liability. The employer shall maintain the required deposit for the period covered by the policy with the director for a period of three years after the issuance date of the special excess policy.

(2) If the special workers' compensation insurance policy does not provide coverage for all of the continuing obligations for which the private self-insured employer is liable, to the extent the employer's obligations are not covered by the policy a private employer shall maintain the required deposit with the director. In addition, the employer shall maintain with the director the required deposit for the period covered by the policy for a period of three years after the issuance date of the special excess policy.

(e) The director shall adopt regulations pursuant to Section 3702.10 that are reasonably necessary to implement this section in order to reasonably protect injured workers, employers, the Self-Insurers' Security Fund, and the California Insurance Guarantee Association.

(f) The posting of a special excess workers' compensation insurance policy with the director shall discharge the obligation of the Self-Insurer's Security Fund pursuant to Section 3744 to pay claims in the event of an insolvency of a private employer to the extent of coverage of compensation liabilities under the special excess workers' compensation insurance policy. The California Insurance Guarantee Association shall be advised by the director whenever a special excess workers' compensation insurance policy is posted.

SEC. 8. The provisions of Sections 2, 3, and 5 of this act, the provisions of Title 13.7 (commencing with Section 2870) of Part 4 of Division 3 of the Civil Code, and the provisions of Title 11.65 (commencing with Section 1776) of Part 3 of the Code of Civil Procedure, are severable. If any of those provisions or any of their applications is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. Sections 2, 3, 5, and 7 of this act shall not become operative unless Senate Bill 1237 of the 1999–2000 Regular Session is enacted, becomes operative, and this act is chaptered after Senate Bill 1237.

CHAPTER 722

An act to amend Sections 1803, 12804.9, 21960, and 23330 of, to add Sections 407.5 and 22411 to, and to add Article 5 (commencing with Section 21220) to Chapter 1 of Division 11 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 407.5 is added to the Vehicle Code, to read:

407.5. (a) A "motorized scooter" is any two-wheeled device that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an electric motor that is capable of propelling the device with or without human propulsion. For purposes of this section, a motorcycle, as defined in Section 400, a motor-driven cycle, as defined in Section 405, a motorized bicycle or moped, as defined in Section 406, or a toy, as defined in Section 108550 of the Health and Safety Code, is not a motorized scooter.

(b) (1) Every manufacturer of motorized scooters shall provide a disclosure to buyers that advises buyers that their existing insurance policies may not provide coverage for these scooters and that they should contact their insurance company or insurance agent to determine if coverage is provided.

(2) The disclosure required under paragraph (1) shall meet both of the following requirements:

(A) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.

(B) The disclosure shall include the following language in capital letters:

"YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS SCOOTER. TO DETERMINE IF COVERAGE IS PROVIDED, YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."

SEC. 2. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, was convicted of any violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel

but not to manipulating any water skis, an aquaplane, or similar device, was convicted of any violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or any violation of Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, was convicted of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle or a motorized scooter.

(7) Division 16.5 (commencing with Section 38000).

(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23538, subdivision (b) of Section 23542, subdivision (b) of Section 23562, or subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the

court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 3. Section 12804.9 of the Vehicle Code, as amended by Section 54.5 of Chapter 877 of the Statutes of 1998, is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination for any applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through any acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any grounds exist for refusal of a license under this code.

(2) The examination for a class A or class B license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a health care professional. As used in this

subdivision, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States of America. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and advanced practice nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers by the Federal Highway Administration. The report shall be on a form approved by the department, the Federal Highway Administration, or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration.

(3) Any physical defect of the applicant, which, in the opinion of the department, is compensated for to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) Beginning on January 1, 1989, in accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Any combination of vehicles, if any vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) Any vehicle towing more than one vehicle.

(C) Any trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Any single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) Any single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) Any bus except a trailer bus.

(D) Any farm labor vehicle.

(E) Any single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) Any two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) Any housecar.

(D) Any three-axle vehicle weighing 6,000 pounds or less gross.

(E) Any housecar or vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. No vehicle shall tow another vehicle in violation of Section 21715.

(F) (i) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway.

The authority to operate combinations of vehicles under this subparagraph shall be granted by endorsement on a class C license upon completion of that written examination.

(G) Any vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating, as those terms are defined in subdivisions (g) and (h), respectively, of Section 15210, of 26,000 pounds or less, if all of the following conditions are met:

(i) Is operated by a farmer, an employee of a farmer, or an instructor credentialed in agriculture as part of an instructional program in agriculture at the high school, community college, or university level.

(ii) Is used exclusively in the conduct of agricultural operations.

(iii) Is not used in the capacity of a for-hire carrier or for compensation.

(H) Any combination of vehicles with a gross combination weight rating, as defined in subdivision (g) of Section 15210, of 26,000 pounds or less when towing a boat trailer under the following conditions:

(i) The combination of vehicles is used to transport a boat for recreational purposes or to and from a place of repair.

(ii) The combination of vehicles is not used in the operations of a common or contract carrier or in the course of any business endeavor.

(iii) The towing of the trailer is not for compensation.

(iv) The combination of vehicles and its load are not of a size that requires a permit pursuant to Section 35780.

(I) Class C does not include any two-wheel motorcycle or any two-wheel motor-driven cycle.

(4) Class M1. Any two-wheel motorcycle or motor-driven cycle. Authority to operate vehicles included in a class M1 license may be

granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) Class M2. Any motorized bicycle or moped, or any bicycle with an attached motor, except a motorized bicycle described in subdivision (b) of Section 406 and a motorized scooter described in Section 407.5. Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) No driver's license or driver certificate shall be valid for operating any commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold any driver certificate or any driver's license endorsement under Section 15275, unless a medical certificate approved by the department, the Federal Highway Administration, or the Federal Aviation Administration, that has been issued within two years of the date of the operation of that vehicle, is within the licensee's immediate possession, and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise, the license shall be valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) shall be valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by

the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this paragraph, "short-term" means 48 hours or less.

(i) No person under the age of 21 years shall be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) Drivers of vanpool vehicles may operate with class C licenses but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

(k) A class M license issued between January 1, 1989, and December 31, 1992, shall permit the holder to operate any motorcycle, motor-driven cycle, or motorized bicycle until the expiration of the license.

(*l*) 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. 4. Section 12804.9 of the Vehicle Code, as amended by Section 55 of Chapter 877 of the Statutes of 1998, is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license

to drive, except that the department may waive the driving test part of the examination for any applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through an acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any ground exists for refusal of a license under this code.

(2) The examination for a class A or class B license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a health care professional. As used in this subdivision, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States of America. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and advanced practice nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers by the Federal Highway Administration. The report shall be on a form approved by the department, the Federal Highway Administration, or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration.

(3) Any physical defect of the applicant, which, in the opinion of the department, is compensated for to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) Beginning on January 1, 1989, in accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Any combination of vehicles, if any vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) Any vehicle towing more than one vehicle.

(C) Any trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Any single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) Any single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) Any bus except a trailer bus.

(D) Any farm labor vehicle.

(E) Any single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) Any two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) Any housecar.

(D) Any three-axle vehicle weighing 6,000 pounds or less gross.

(E) Any housecar or vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. No vehicle shall tow another vehicle in violation of Section 21715.

(F) (i) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) Any two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway. The authority to operate combinations of vehicles under this subparagraph shall be granted by endorsement on a class C license upon completion of that written examination.

(G) Class C does not include any two-wheel motorcycle or any two-wheel motor-driven cycle.

(4) Class M1. Any two-wheel motorcycle or motor-driven cycle. Authority to operate vehicles included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) Class M2. Any motorized bicycle or moped, or any bicycle with an attached motor, except a motorized bicycle described in

subdivision (b) of Section 406 and a motorized scooter described in Section 407.5. Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) No driver's license or driver certificate shall be valid for operating any commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold any driver certificate or any driver's license endorsement under Section 15275, unless a medical certificate approved by the department, the Federal Highway Administration, or the Federal Aviation Administration, that has been issued within two years of the date of the operation of that vehicle, is within the licensee's immediate possession, and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise the license shall be valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) shall be valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and

driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this paragraph, "short-term" means 48 hours or less.

(i) No person under the age of 21 years shall be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) Drivers of vanpool vehicles may operate with class C licenses but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

(k) A class M license issued between January 1, 1989, and December 31, 1992, shall permit the holder to operate any motorcycle, motor-driven cycle, or motorized bicycle until the expiration of the license.

(*l*) This section shall become operative on January 1, 2001.

SEC. 5. Article 5 (commencing with Section 21220) is added to Chapter 1 of Division 11 of the Vehicle Code, to read:

Article 5. Operation of Motorized Scooters

21220. (a) The Legislature finds and declares both of the following:

(1) This state has severe traffic congestion and air pollution problems, particularly in its cities, and finding ways to reduce these problems is of paramount importance.

(2) Motorized scooters that meet the definition of Section 407.5 produce no emissions and, therefore, do not contribute to increased air pollution or increase traffic congestion.

(b) It is the intent of the Legislature in adding this article to promote the use of alternative low-emission or no-emission transportation.

21220.5. For the purposes of this article, a motorized scooter is defined in Section 407.5.

21221. Every person operating a motorized scooter upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with

Section 20000), Division 17 (commencing with Section 40000.1), and Division 18 (commencing with Section 42000), except those provisions which, by their very nature, can have no application.

21221.5. Notwithstanding Section 21221, it is unlawful for any person to operate a motorized scooter upon a highway while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug. Any person arrested for a violation of this section may request to have a chemical test made of the person's blood or breath for the purpose of determining the alcoholic or drug content of that person's blood pursuant to subdivision (d) of Section 23157, and, if so requested, the arresting officer shall have the test performed. A conviction of a violation of this section shall be punished by a fine of not more than two hundred fifty dollars ($250).

21223. (a) Every motorized scooter operated upon any highway during darkness shall be equipped with the following:

(1) Except as provided in subdivision (b), a lamp emitting a white light which, while the motorized scooter is in motion, illuminates the highway in front of the operator and is visible from a distance of 300 feet in front and from the sides of the motorized scooter.

(2) Except as provided in subdivision (c), a red reflector on the rear that is visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.

(3) A white or yellow reflector on each side visible from the front and rear of the motorized scooter from a distance of 200 feet.

(b) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the motorized scooter, may be used in lieu of the lamp required by paragraph (1) of subdivision (a).

(c) A red reflector, or reflectorized material meeting the requirements of Section 25500, attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of the reflector required by paragraph (2) of subdivision (a).

21224. (a) A person operating a motorized scooter is not subject to the provisions of this code relating to financial responsibility, registration, and license plate requirements, and, for those purposes, a motorized scooter is not a motor vehicle.

(b) A motorized scooter is exempt from the equipment requirements in Division 12 (commencing with Section 24000), except for Sections 24003 and 27400, Article 4 (commencing with Section 27450) of Chapter 5 of Division 12, and Section 27602.

(c) Notwithstanding subdivision (b), any motorized scooter may be equipped with equipment authorized by Division 12 (commencing with Section 24000).

(d) Any motorized scooter equipped with lighting equipment that is authorized by Division 12 (commencing with Section 24000)

shall meet the lighting requirements in Article 1 (commencing with Section 24250) of Chapter 2 of Division 12 for that equipment.

21225. This article does not prevent local authorities, by ordinance, from regulating the registration of motorized scooters and the parking and operation of motorized scooters on pedestrian or bicycle facilities, if the regulation is not in conflict with this code.

21227. (a) A motorized scooter shall comply with one of the following:

(1) Operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied.

(2) Operate in a manner so that the motor is engaged through a switch or mechanism that, when released, will cause the electric motor to disengage or cease to function.

(b) It is unlawful for a person to operate a motorized scooter that does not meet one of the requirements of subdivision (a).

21228. (a) Any person operating a motorized scooter upon a highway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or right edge of the roadway, except under the following situations:

(1) When overtaking and passing another vehicle proceeding in the same direction.

(2) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

(3) (A) When reasonably necessary to avoid conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes, which make it unsafe to continue along the right-hand curb or right edge of the roadway, subject to Section 21656.

(B) For the purposes of subparagraph (A), a "substandard width lane" is a lane that is too narrow for a motorized scooter and another vehicle to travel safely side by side within the lane.

(4) Any person operating a motorized scooter upon a highway that carries traffic in one direction only and has two or more marked traffic lanes may operate the motorized scooter as near the left-hand curb or left edge of that roadway as practicable.

However, when preparing for a right turn, the operator shall stop and dismount as close as practicable to the left-hand curb or left edge of the highway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

21229. (a) Whenever a class II bicycle lane has been established on a roadway, any person operating a motorized scooter upon the roadway shall ride within the bicycle lane, except that the person may move out of the lane under any of the following situations:

(1) When overtaking and passing another vehicle or pedestrian within the lane or when about to enter the lane if the overtaking and passing cannot be done safely within the lane.

(2) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

(3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

(4) When approaching a place where a right turn is authorized.

(b) No person operating a motorized scooter shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in Chapter 6 (commencing with Section 22100) in the event that any vehicle may be affected by the movement.

21230. Notwithstanding any other provision of law, a motorized scooter may be operated on a bicycle path or trail or bikeway, unless the local authority or the governing body of a local agency having jurisdiction over that path, trail, or bikeway prohibits that operation by ordinance.

21235. The operator of a motorized scooter shall not do any of the following:

(a) Operate a motorized scooter unless it is equipped with a brake that will enable the operator to make a braked wheel skid on dry, level, clean pavement.

(b) Operate a motorized scooter on a highway with a speed limit in excess of 25 miles per hour unless the motorized scooter is operated within a class II bicycle lane.

(c) Operate a motorized scooter without wearing a properly fitted and fastened bicycle helmet that meets the standards described in Section 21212.

(d) Operate a motorized scooter when the operator is under the age of 16 years.

(e) Operate a motorized scooter with any passengers in addition to the operator.

(f) Operate a motorized scooter carrying any package, bundle, or article that prevents the operator from keeping at least one hand upon the handlebars.

(g) Operate a motorized scooter upon a sidewalk, except as may be necessary to enter or leave adjacent property.

(h) Operate a motorized scooter on the highway with the handlebars raised so that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.

(i) Leave a motorized scooter lying on its side on any sidewalk, or park a motorized scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.

(j) Attach the motorized scooter or himself or herself while on the roadway, by any means, to any other vehicle on the roadway.

SEC. 6. Section 21960 of the Vehicle Code is amended to read:

21960. (a) The Department of Transportation and local authorities may, by order, ordinance, or resolution, with respect to freeways or designated portions thereof under their respective jurisdictions, to which all rights of access have been acquired, prohibit or restrict the use of the freeways or any portion thereof by pedestrians, bicycles or other nonmotorized traffic or by any person operating a motor-driven cycle, motorized bicycle, or motorized scooter. Any prohibition or restriction pertaining to bicycles, motor-driven cycles, or motorized scooters, shall be deemed to include motorized bicycles; and no person may operate a motorized bicycle wherever that prohibition or restriction is in force. Notwithstanding any provisions of any order, ordinance, or resolution to the contrary, the driver or passengers of a disabled vehicle stopped on a freeway may walk to the nearest exit, in either direction, on that side of the freeway upon which the vehicle is disabled, from which telephone or motor vehicle repair services are available.

(b) The prohibitory regulation authorized by subdivision (a) shall be effective when appropriate signs giving notice thereof are erected upon any freeway and the approaches thereto.

(c) No ordinance or resolution of local authorities shall apply to any state highway until the proposed ordinance or resolution has been presented to, and approved in writing by, the Department of Transportation.

SEC. 7. Section 22411 is added to the Vehicle Code, to read:

22411. No person shall operate a motorized scooter at a speed in excess of 15 miles per hour.

SEC. 8. Section 23330 of the Vehicle Code is amended to read:

23330. Except where a special permit has been obtained from the Department of Transportation under the provisions of Article 6 (commencing with Section 35780) of Chapter 5 of Division 15, none of the following shall be permitted on any vehicular crossing:

(a) Animals while being led or driven, even though tethered or harnessed.

(b) Bicycles, motorized bicycles, or motorized scooters, unless the department by signs indicates that bicycles, motorized bicycles, or motorized scooters, or any combination thereof, are permitted upon all or any portion of the vehicular crossing.

(c) Vehicles having a total width of vehicle or load exceeding 102 inches.

(d) Vehicles carrying items prohibited by regulations promulgated by the Department of Transportation.

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.

CHAPTER 723

An act to amend Sections 1803, 23221, 23223, 23225, and 23226 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, was convicted of any violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, was convicted of any violation of Section 655.2, 655.6, 658, or 658.5 of the Harbors and Navigation Code, or any violation of Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, was convicted of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, was convicted of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or was convicted of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a):

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(8) Subdivision (b) of Section 23221, subdivision (b) of Section 23223, subdivision (b) of Section 23225, and subdivision (b) of Section 23226.

(c) If the court impounds a license, or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23538, subdivision (b) of Section 23542, subdivision (b) of Section 23562, or subdivision (d) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23602, the clerk of the court in which the order terminating or revoking probation was entered shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

SEC. 2. Section 23221 of the Vehicle Code is amended to read:

23221. (a) No driver shall drink any alcoholic beverage while in a motor vehicle upon a highway.

(b) No passenger shall drink any alcoholic beverage while in a motor vehicle upon a highway.

SEC. 3. Section 23223 of the Vehicle Code is amended to read:

23223. (a) No driver shall have in his or her possession, while in a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

(b) No passenger shall have in his or her possession, while in a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.

SEC. 4. Section 23225 of the Vehicle Code is amended to read:

23225. (a) (1) It is unlawful for the registered owner of any motor vehicle to keep in a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle.

(2) If the vehicle is not equipped with a trunk and is not an off-highway motor vehicle subject to identification, as defined in Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in some other area of the vehicle that is not normally occupied by the driver or passengers. For the purposes of this paragraph, a utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(3) If the vehicle is not equipped with a trunk and is an off-highway motor vehicle subject to identification, as defined in subdivision (a) of Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in a locked container. As used in this paragraph, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

(b) Subdivision (a) is also applicable to a driver of a motor vehicle if the registered owner is not present in the vehicle.

(c) This section shall not apply to the living quarters of a housecar or camper.

SEC. 5. Section 23226 of the Vehicle Code is amended to read:

23226. (a) It is unlawful for any driver to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

(b) It is unlawful for any passenger to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.

(c) This section shall not apply to the living quarters of a housecar or camper.

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.

CHAPTER 724

An act to amend Sections 14076.2 and 103113 of, and to repeal Section 14451 of, the Government Code, to amend Section 20300 of, and to amend the heading of Article 16 (commencing with Section 20300) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, to amend Sections 28748.8, 100000, 100011, and 131268 of, to amend the heading of Part 12 (commencing with Section 100000) of Division 10 of, to add Section 100002 to, the Public Utilities Code, to amend Sections 8503 and 8504 of, and to amend Section 10753 of, the Revenue and Taxation Code, to amend Sections 104.18, 253.1, 253.7, 318, 344, 366, 383, 391.1, 442, 559, 635, and 2104 of, to repeal Section 574 of, and to amend and renumber Section 630 of, the Streets and Highways Code, to amend Sections 2800, 4604.5, 5002.7, 13102, 14104.5, 14105, 14105.5, 15300, 15302, 21753, 22349, 22406, 23620, 29004, 34500, 34520, 34631.5, 40001, 40303, 42001.1, and 42005 of, to add Sections 407.5, 15309, 15311, and 29004 to, to repeal Section 21100.4 of, and to amend, repeal, and add Section 35160 of, the Vehicle Code, and to amend Section 6 of Chapter 1159 of the Statutes of 1993, relating to transportation, and making an appropriation therefor.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 14076.2 of the Government Code is amended to read:

14076.2. (a) There is hereby created the Capitol Corridor Joint Powers Board, subject to being organized pursuant to subdivision (b). The board shall be composed of not more than the following 16 members:

(1) Six members of the San Francisco Bay Area Rapid Transit District Board of Directors, appointed by the board of directors of that district, as follows:

(A) Two who are residents of Alameda County.

(B) Two who are residents of Contra Costa County.

(C) Two who are residents of the City and County of San Francisco.

(2) Two members of the Board of Directors of the Sacramento Regional Transit District, appointed by the board of directors of that district.

(3) Two members of the Board of Directors of the Santa Clara Valley Transportation Authority, appointed by the board of directors of that authority.

(4) Two members of the county congestion management agency for the County of Yolo, appointed by that agency.

(5) Two members of the county congestion management agency for the County of Solano, appointed by that agency.

(6) Two members of the Placer County Transportation Planning Agency, appointed by that agency.

(b) The board shall be organized when at least two of the jurisdictions described in paragraphs (1) to (6), inclusive, of subdivision (a) elect to appoint members to serve on the board. Only those jurisdictions that appoint members to serve on the board prior to December 31, 1996, shall be member-agencies of the board.

SEC. 2. Section 14451 of the Government Code is repealed.

SEC. 3. The heading of Article 16 (commencing with Section 20300) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 16. Santa Clara Valley Transportation Authority

SEC. 4. Section 20300 of the Public Contract Code is amended to read:

20300. The provisions of this article apply to contracts by the Santa Clara Valley Transportation Authority, as provided for in Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code.

SEC. 5. The heading of Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code is amended to read:

PART 12. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

SEC. 6. Section 28748.8 of the Public Utilities Code is amended to read:

28748.8. (a) The board may by ordinance or resolution provide that each director shall be paid a sum that shall not exceed one thousand dollars ($1,000) for each calendar month that he or she serves as a director.

(b) The ordinance or resolution to authorize a monthly stipend pursuant to subdivision (a), in lieu of per-meeting compensation, shall include a requirement that a member can receive a monthly stipend for a given month only if he or she attends all scheduled and

noticed regular board meetings for that month. For those members meeting this attendance requirement, the amount of one hundred dollars ($100) shall be deducted form the stipend for failure to attend each meeting of a committee on which he or she serves that month. In any month that a member fails to meet these attendance requirements, that member may be compensated at the rate of one hundred dollars ($100) per board or committee meeting attended, not to exceed five hundred dollars ($500) for that month.

(c) For the purpose of this section, a member who misses a scheduled and noticed meeting of the board or a committee while attending to official district business pursuant to authorization shall be construed as having attended the meeting.

(d) The ordinance or resolution may provide for not more than two excused absences during a calendar year without disqualifying the member for a monthly stipend.

(e) In addition to the compensation otherwise provided for in this section, each director may be allowed necessary traveling and personal expenses incurred solely as a result of the performance of his or her duties, in amounts as may be authorized by the board.

SEC. 7. Section 100000 of the Public Utilities Code is amended to read:

100000. This part shall be known and may be cited as the "Santa Clara Valley Transportation Authority Act."

SEC. 8. Section 100002 is added to the Public Utilities Code, to read:

100002. The Santa Clara County Transit District is renamed the Santa Clara Valley Transportation Authority. Any reference in this part, or in any other provision of law or regulation, to the Santa Clara County Transit District shall be deemed to refer to the Santa Clara Valley Transportation Authority. Nothing in the act that added this section alters, impairs, or terminates the district's status as a transit district, and as an ongoing legal entity, or any of its legal obligations.

SEC. 9. Section 100011 of the Public Utilities Code is amended to read:

100011. "Authority," "district," or "VTA" means the Santa Clara Valley Transportation Authority.

SEC. 10. Section 103113 of the Public Utilities Code is amended to read:

103113. Each member of the board shall receive compensation, as determined by the board, in an amount not to exceed one hundred dollars ($100) for attending each meeting of the board and each committee meeting, but not to exceed four hundred dollars ($400) in any month, and shall receive his or her actual necessary expenses incurred in the performance of his or her duty.

SEC. 11. Section 131268 of the Public Utilities Code is amended to read:

131268. Each member of a county transportation authority shall be compensated at the rate of one hundred dollars ($100) for each

day attending the business of the authority, but not to exceed four hundred dollars ($400) in any month, and necessary traveling and personal expenses incurred in the performance of his or her duties as authorized by the county transportation authority.

SEC. 12. Section 8503 of the Revenue and Taxation Code is amended to read:

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.

(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.

SEC. 13. Section 8504 of the Revenue and Taxation Code is amended to read:

8504. (a) 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.

(b) The measure may not be grouped with state or local measures on the ballot, but shall be set forth in a separate category and shall be identified as Regional Measure 2.

(c) Regardless of the system of voting used, the wording of the measure shall read as follows:

"Shall The Metropolitan Transportation Commission be authorized to impose a tax of _____ per gallon on the sale of gasoline to build and operate transportation projects identified in the expenditure plan adopted by the commission?"

(d) 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 or, if the measure is

not approved, from any funds of the commission that are available for general transportation planning.

(e) 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.

SEC. 14. Section 10753 of the Revenue and Taxation Code, as amended by Section 139 of Chapter 17 of the Statutes of 1997, is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any commercial vehicle is modified or additions are made to the chassis or body at a cost of two thousand dollars ($2,000) or more, but not including any change of engine of the same type or any cost of repairs to a commercial vehicle, the owner of the commercial vehicle shall report any modification or addition to the department and the department shall classify or reclassify the commercial vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the commercial vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) does not apply under any of the following conditions:

(A) When the cost of any modification or addition to the chassis or body of a commercial vehicle is less than two thousand dollars ($2,000).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(3) For purposes of this subdivision, "commercial vehicle" means a "commercial vehicle," as defined in Section 260 of the Vehicle Code, that is regulated by the Department of the Highway Patrol pursuant to Sections 2813 and 34500 of the Vehicle Code.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 15. Section 10753 of the Revenue and Taxation Code, as amended by Section 140 of Chapter 17 of the Statutes of 1997, is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" includes the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles, or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372

of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any vehicle is modified or additions are made to the chassis or body at a cost of two hundred dollars ($200) or more, but not including any change of engine of the same type or any cost of repairs to a vehicle, the owner of the vehicle shall report any modification or addition to the department and the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) does not apply to any of the following:

(A) When the cost of any modification or addition to the chassis or body of a vehicle is less than two hundred dollars ($200).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(d) This section also applies to a system as specified in subdivision (c) that is approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when that system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall become operative on January 1, 2001.

SEC. 15.5. Section 104.18 of the Streets and Highways Code is amended to read:

104.18. (a) Real property in the City of San Diego between 17th Street and the west side of Route 5 between the southbound onramp and the offramp near J Street, which was acquired for highway purposes and which is not excess property, may be leased by the department to a city, county, or other political subdivision or another state agency for emergency shelter, feeding program purposes, or for the establishment of a day care center for children.

(b) The lease shall be for one dollar ($1) per month. The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee. The lease shall require the payment of an administrative fee not to exceed five hundred dollars ($500) per year, unless the department determines that a higher administrative fee is necessary, for the department's cost of administering the lease.

(c) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

SEC. 16. Section 253.1 of the Streets and Highways Code is amended to read:

253.1. The California freeway and expressway system shall include:

Routes 5, 6, 7, 8, 10, 11, 14, 15, 18, 24, 28, 32, 34, 37, 40, 44, 47, 48, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 63, 65, 67, 68, 70, 71, 73, 74, 78, 80, 81, 83, 85, 87, 88, 89, 90, 93, 97, 100, 102, 103, 105, 107, 108, 118, 121, 122, 124, 125, 126, 134, 136, 139, 140, 145, 148, 149, 154, 156, 161, 163, 164, 179, 181, 183, 184, 199, 205, 210, 215, 217, 221, 223, 230, 232, 234, 235, 237, 238, 239, 241, 242, 247, 249, 251, 257, 258, 259, 261, 280, 330, 371, 380, 405, 505, 580, 605, 680, 710, 780, 805, 880, and 980 in their entirety.

SEC. 17. Section 253.7 of the Streets and Highways Code is amended to read:

253.7. The California freeway and expressway system shall also include:

Route 133 from Route 73 to Route 241.

Route 137 from Route 99 near Tulare to Route 65 near Lindsay.

Route 138 from Route 5 near Gorman to Route 15 near Cajon Pass.

Route 142 from Route 71 near Chino to Route 210 near Upland.

Route 152 from Route 101 to Route 65 near Sharon via Pacheco Pass.

Route 160 from:

(a) Route 4 near Antioch to Route 12 near Rio Vista.

(b) Sacramento to Route 51.

Route 166 from:

(a) Route 101 near Santa Maria to Route 33 in Cuyama Valley.

(b) Route 33 near Maricopa to Route 5.

Route 168 from Fresno to Huntington Lake.

Route 170 from:

(a) Los Angeles International Airport to Route 90.

(b) Route 101 near Riverside Drive to Route 5 near Tujunga Wash.

Route 178 from:

(a) Bakersfield to Route 14 near Freeman.

(b) Route 14 near Freeman to the vicinity of the San Bernardino county line.

Route 180 from:

(a) Route 25 near Paicines to Route 5.

(b) Route 5 to Route 99 passing near Mendota.

(c) Route 99 near Fresno to General Grant Grove section of Kings Canyon National Park.

Route 190 from Route 136 near Keeler to Route 127 near Death Valley Junction.

Route 193 from Route 65 near Lincoln to Route 80 near Newcastle.

Route 198 from Route 5 near Oilfields to the Sequoia National Park line.

SEC. 18. Section 318 of the Streets and Highways Code is amended to read:

318. Route 18 is from:

(a) Route 10 near San Bernardino to Route 210.

(b) Route 210 near San Bernardino to Route 15 in Victorville via Big Bear Lake.

(c) Route 15 near Victorville to Route 138 near Pearblossom.

SEC. 19. Section 344 of the Streets and Highways Code is amended to read:

344. Route 44 is from Route 299 at Redding to Route 36 west of Susanville, via the vicinity of Lassen Volcanic National Park.

SEC. 20. Section 366 of the Streets and Highways Code is amended to read:

366. Route 66 is from Route 210 near San Dimas to Route 215 in San Bernardino.

SEC. 21. Section 383 of the Streets and Highways Code is amended to read:

383. Route 83 is from Route 71 to Route 210 near Upland.

SEC. 22. Section 391.3 is added to the Streets and Highways Code, to read:

391.3. 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 between State Route 107 and State Route 1 to the Cities of Hermosa Beach, Lawndale, Manhattan Beach, and Redondo Beach in which that portion of the highway is located, if the cities agree to accept it. The relinquishment shall be effective on the day immediately following the commission's approval of the terms and conditions.

SEC. 23. Section 442 of the Streets and Highways Code is amended to read:

442. Route 142 is from:

(a) Route 90 near Brea to Route 71 near Chino.

(b) Route 71 near Chino to Route 210 near Upland.

SEC. 24. Section 559 of the Streets and Highways Code is amended to read:

559. Route 259 is from Route 215 to Route 210 in San Bernardino.

SEC. 25. Section 574 of the Streets and Highways Code is repealed.

SEC. 26. Section 630 of the Streets and Highways Code is amended and renumbered to read:

603. Route 330 is from Route 210 near Highland northeasterly to Route 18.

SEC. 27. Section 635 of the Streets and Highways Code is amended to read:

635. (a) State Highway Route 1 from Las Cruces to San Francisco shall be known and designated as the "Cabrillo Highway."

(b) State highway routes embracing portions of Routes 280, 82, 237, 101, 5, and 72, and connecting city streets and county roads thereto, and extending in a continuous route from San Francisco southerly to the international border and near the route historically known as El Camino Real shall be known and designated as "El Camino Real."

(c) State Highway Route 1 from south of San Juan Capistrano to near El Rio shall be known and designated as the "Pacific Coast Highway."

SEC. 28. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents ($0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division. 2), 1.80 cents ($0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of Division 2), and 1.80 cents ($0.0180) under the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001) of Division 2) of the Revenue and Taxation Code, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal or snow grooming, or both, costs filed pursuant to subdivision (d) of Section 2152, or seven million dollars ($7,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal or snow grooming, or both, on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount that is computed monthly as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 29. Section 407.5 is added to the Vehicle Code, to read:

407.5. (a) A "motorized scooter" is any two-wheeled device that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an electric motor that is capable of propelling the device with or without human propulsion. For purposes of this section, a motorcycle, as defined in Section 400, a motor-driven cycle, as defined in Section 405, a motorized bicycle or moped, as defined in Section 406, or a toy, as defined in Section 108550 of the Health and Safety Code, is not a motorized scooter.

(b) A device meeting the definition in subdivision (a) that is powered by a source other than electrical power is also a motorized scooter.

(c) (1) Every manufacturer of motorized scooters shall provide a disclosure to buyers that advises buyers that their existing insurance policies may not provide coverage for these scooters and that they should contact their insurance company or insurance agent to determine if coverage is provided.

(2) The disclosure required under paragraph (1) shall meet both of the following requirements:

(A) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.

(B) The disclosure shall include the following language in capital letters:

"YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS SCOOTER. TO DETERMINE IF COVERAGE IS PROVIDED, YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."

SEC. 29.5. Section 2800 of the Vehicle Code is amended to read:

2800. (a) It is unlawful to willfully fail or refuse to comply with any lawful order, signal, or direction of any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties under any of the provisions of this code, or to refuse to submit to any lawful inspection under this code.

(b) Except as authorized under Section 24004, it is unlawful to fail or refuse to comply with any lawful out-of-service order issued by any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties under any provision of this code and the out-of-service order complies with Sections 395.13 and 396.9 of Title 49 of the Code of Federal Regulations.

SEC. 30. Section 4604.5 of the Vehicle Code is amended to read:

4604.5. (a) If the vehicle has not been operated, moved, or left standing upon any highway subsequent to the expiration of the vehicle's registration, the certification specified in Section 4604 or 4604.2 may be filed after the expiration of the registration of a vehicle, but not later than 90 days after the expiration date, subject to the payment of the filing fee specified in Section 4604 and the penalty specified in subdivision (b).

(b) A penalty shall be collected on any certification specified in Section 4604 or 4604.2 filed later than midnight of the date of expiration of registration. The penalty shall be computed as provided in Sections 9406 and 9559 and after the registration and weight fees have been combined with the license fee specified in Section 10751 of the Revenue and Taxation Code, as follows:

(1) For a delinquency period of 10 days or less, the penalty is 10 percent of the fee.

(2) For a delinquency period of more than 10 days, to and including 30 days, the penalty is 20 percent of the fee.

(3) For a delinquency period of more than 30 days, to and including 90 days, the penalty is 60 percent of the fee.

SEC. 30.5. Section 5002.7 of the Vehicle Code is amended to read:

5002.7. (a) For any county of over 20,000 square miles in area, any member of the county board of supervisors who is regularly issued a county-owned vehicle may apply to the department for regular series license plates for that vehicle, if a request for that issuance is also made by the county board of supervisors. The application and the request shall be in the manner specified by the department.

(b) Regular series license plates issued pursuant to subdivision (a) shall be surrendered to the department by the board member or administrative officer, as applicable, upon the reassignment of a vehicle, for which those plates have been issued, to a person other than the person who requested those plates.

SEC. 31. Section 13102 of the Vehicle Code is amended to read:

13102. When used in reference to a driver's license, "suspension" means that the person's privilege to drive a motor vehicle is temporarily withdrawn. The department may, before terminating any suspension based upon a physical or mental condition of the licensee, require such examination of the licensee as deemed appropriate in relation to evidence of any condition which may affect the ability of the licensee to safely operate a motor vehicle.

SEC. 32. Section 14104.5 of the Vehicle Code is amended to read:

14104.5. (a) Before a hearing has commenced, the department, or the hearing officer or hearing board, shall issue subpoenas or subpoenas duces tecum, or both, at the request of any party, for attendance or production of documents at the hearing. After the hearing has commenced, the department, if it is hearing the case, or the hearing officer sitting alone, or the hearing board, may issue subpoenas or subpoenas duces tecum, or both.

(b) Notwithstanding Section 11450.20 of the Government Code, subpoenas and subpoenas duces tecum issued in conjunction with the hearings may be served by first-class mail.

SEC. 33. Section 14105 of the Vehicle Code is amended to read:

14105. (a) Upon the conclusion of a hearing, the hearing officer or hearing board shall make findings and render a decision on behalf of the department and shall notify the person involved. Notice of the decision shall include a statement of the person's right to a review. The decision shall take effect as stated in the notice, but not less than four nor more than 15 days after the notice is mailed.

(b) The decision may be modified at any time after issuance to correct mistakes or clerical errors.

SEC. 34. Section 14105.5 of the Vehicle Code is amended to read:

14105.5. (a) The person subject to a hearing may request a review of the decision taken under Section 14105 within 15 days of the effective date of the decision.

(b) On receipt of a request for review, the department shall stay the action pending a decision on review, unless the hearing followed an action pursuant to Section 13353, 13353.2, or 13953. The review shall include an examination of the hearing report, documentary evidence, and findings. The hearing officer or hearing board conducting the original hearing may not participate in the review process.

(c) Following the review, a written notice of the department's decision shall be mailed to the person involved. If the action has been stayed pending review, the department's decision shall take effect as

stated in the notice, but not less than four nor more than 15 days after the notice is mailed.

(d) The decision may be modified at any time after issuance to correct mistakes or clerical errors.

SEC. 35. Section 15300 of the Vehicle Code is amended to read:

15300. (a) No driver of a commercial motor vehicle may operate a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of any of the following:

(1) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.

(2) Leaving the scene of an accident involving a commercial motor vehicle operated by the driver.

(3) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(b) If any of the above violations, or a violation listed in paragraph (2) of subdivision (a) of Section 13350 or Section 13352 or 13357, occurred while transporting a hazardous material, the period specified in subdivision (a) shall be three years.

SEC. 35.2. Section 15302 of the Vehicle Code is amended to read:

15302. No driver of a commercial motor vehicle may operate a commercial motor vehicle for the rest of his or her life if convicted of more than one violation of any of the following:

(a) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.

(b) Leaving the scene of an accident involving a commercial motor vehicle operated by the driver.

(c) Using a commercial motor vehicle in the commission of more than one felony arising out of separate occasions of arrest or citation.

(d) A violation of Section 2800.1, 2800.2, or 2800.3 that involves a commercial motor vehicle.

(e) Any combination of the above violations.

SEC. 35.4. Section 15309 is added to the Vehicle Code, to read:

15309. In addition to any other action taken under this code, no driver may operate a commercial motor vehicle for a period of 60 days if the department determines, after a hearing, that the person falsified information on his or her application for a driver's license in violation of the standards set forth in subpart J of part 383 or Section 383.71(a) of Title 49 of the Code of Federal Regulations.

SEC. 36. Section 15311 is added to the Vehicle Code, to read:

15311. (a) No driver may operate a commercial motor vehicle for a period of 90 days if the person is convicted of a first violation of an out-of-service order under subdivision (b) of Section 2800.

(b) No driver may operate a commercial motor vehicle for a period of one year if the person is convicted of a second violation of an out-of-service order under subdivision (b) of Section 2800 during any 10-year period, arising from separate incidents.

(c) No driver may operate a commercial motor vehicle for a period of three years if the person is convicted of a third or

subsequent violation of an out-of-service order under subdivision (b) of Section 2800 during any 10-year period, arising from separate incidents.

SEC. 37. Section 15320 is added to the Vehicle Code, to read:

15320. The department shall suspend, revoke, or cancel, the privilege of any person to operate a commercial motor vehicle for the periods specified in this article upon receipt of a duly certified abstract of the record of any court that the person has been convicted of any of the offenses set forth in this article.

SEC. 38. Section 21100.4 of the Vehicle Code is repealed.

SEC. 40. Section 21753 of the Vehicle Code is amended to read:

21753. Except when passing on the right is permitted, the driver of an overtaken vehicle shall safely move to the right-hand side of the highway in favor of the overtaking vehicle after an audible signal or a momentary flash of headlights by the overtaking vehicle, and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle. This section does not require the driver of an overtaken vehicle to drive on the shoulder of the highway in order to allow the overtaking vehicle to pass.

SEC. 41. Section 22349 of the Vehicle Code is amended to read:

22349. (a) Except as provided in Section 22356, no person may drive a vehicle upon a highway at a speed greater than 65 miles per hour.

(b) Notwithstanding any other provision of law, no person may drive a vehicle upon a two-lane, undivided highway at a speed greater than 55 miles per hour unless that highway, or portion thereof, has been posted for a higher speed by the Department of Transportation or appropriate local agency upon the basis of an engineering and traffic survey. For purposes of this subdivision, the following apply:

(1) A two-lane, undivided highway is a highway with not more than one through lane of travel in each direction.

(2) Passing lanes may not be considered when determining the number of through lanes.

(c) It is the intent of the Legislature that there be reasonable signing on affected two-lane, undivided highways described in subdivision (b) in continuing the 55 miles-per-hour speed limit, including placing signs at county boundaries to the extent possible, and at other appropriate locations.

SEC. 42. Section 22406 of the Vehicle Code is amended to read:

22406. (a) No person may drive any of the following vehicles on a highway at a speed in excess of 55 miles per hour:

(1) A motortruck or truck tractor having three or more axles or any motortruck or truck tractor drawing any other vehicle.

(2) A passenger vehicle or bus drawing any other vehicle.

(3) A schoolbus transporting any school pupil.

(4) A farm labor vehicle when transporting passengers.

(5) A vehicle transporting explosives.

(6) A trailer bus, as defined in Section 636.

(b) Any person who operates a commercial motor vehicle, as defined in Section 15210, upon a highway at a speed exceeding a maximum speed limit established under this code by 15 miles per hour or more, is guilty of a misdemeanor. A violation of this subdivision shall be considered a "serious traffic violation," as defined in subdivision (i) of Section 15210, and shall be subject to the sanctions provided under Section 15306 or 15308, in addition to any other penalty provided by law.

SEC. 43. Section 23620 of the Vehicle Code is amended to read:

23620. (a) For the purposes of this division, Section 13352, and Chapter 12 (commencing with Section 23100) of Division 11, a separate offense that resulted in a conviction of a violation of subdivision (f) of Section 655 of the Harbors and Navigation Code or of Section 191.5 of, or paragraph (3) of subdivision (c) of Section 192 of, the Penal Code is a separate offense of a violation of Section 23153.

(b) For the purposes of this division and Chapter 12 (commencing with Section 23100) of Division 11, and Section 13352, a separate offense that resulted in a conviction of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code is a separate violation of Section 23152.

SEC. 44. Section 29004 of the Vehicle Code is amended to read:

29004. (a) (1) Except as required under paragraph (2), every towed vehicle shall be coupled to the towing vehicle or tow truck by means of a safety chain, cable, or equivalent device in addition to the regular drawbar, tongue, or other connection.

(2) Any vehicle towed by a tow truck shall be coupled to the tow truck by means of at least two safety chains in addition to the primary restraining system. The safety chains shall be securely affixed to the truck frame, bed, or towing equipment, independent of the towing sling, wheel lift, or under-reach towing equipment.

(3) Any vehicle transported on a slide back carrier or conventional trailer shall be secured by at least four tiedown chains, straps, or an equivalent device, independent of the winch or loading cable. This paragraph shall not apply to vehicle bodies that are being transported in compliance with Sections 1340 to 1344, inclusive, of Title 13 of the California Code of Regulations.

(4) Vehicles being towed by a licensed repossession agency pursuant to subdivision (b) of Section 615 shall be exempt from the multisafety chain requirement of paragraph (2) so long as the vehicle is not towed more than one mile from the point of repossession and is secured by one safety chain.

(b) All safety connections and attachments shall be of sufficient strength to control the towed vehicle in the event of failure of the regular hitch, coupling device, drawbar, tongue, or other connection. All safety connections and attachments also shall have a positive means of ensuring that the safety connection or attachment does not become dislodged while in transit.

(c) No more slack may be left in a safety chain, cable, or equivalent device than is necessary to permit proper turning. When a drawbar is used as the towing connection, the safety chain, cable, or equivalent device shall be connected to the towed and towing vehicle and to the drawbar so as to prevent the drawbar from dropping to the ground if the drawbar fails.

(d) Subdivision (a) does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly, nor to a towed motor vehicle when steered by a person who holds a license for the type of vehicle being towed.

(e) For purposes of this section, "tow truck" includes an automobile dismantler's tow vehicle, as defined in subdivision (c) of Section 615.

(f) This section shall not become operative if Senate Bill 378 of the 1999–2000 Regular Session is enacted and becomes operative and amends Section 615 of the Vehicle Code.

SEC. 45. Section 29004 of the Vehicle Code is amended to read:

29004. (a) (1) Except as required under paragraph (2), every towed vehicle shall be coupled to the towing vehicle by means of a safety chain, cable, or equivalent device in addition to the regular drawbar, tongue or other connection.

(2) Any vehicle towed by a tow truck shall be coupled to the tow truck by means of at least two safety chains in addition to the primary restraining system. The safety chains shall be securely affixed to the truck frame, bed, or towing equipment, independent of the towing sling, wheel lift, or under-reach towing equipment.

(3) Any vehicle transported on a slide back carrier or conventional trailer shall be secured by at least four tiedown chains, straps, or an equivalent device, independent of the winch or loading cable. This subdivision shall not apply to vehicle bodies that are being transported in compliance with Sections 1340 to 1344, inclusive, of Title 13 of the California Code of Regulations.

(b) All safety connections and attachments shall be of sufficient strength to control the towed vehicle in the event of failure of the regular hitch, coupling device, drawbar, tongue, or other connection. All safety connections and attachments also shall have a positive means of ensuring that the safety connection or attachment does not become dislodged while in transit.

(c) No more slack may be left in a safety chain, cable, or equivalent device than is necessary to permit proper turning. When a drawbar is used as the towing connection, the safety chain, cable, or equivalent device shall be connected to the towed and towing vehicle and to the drawbar so as to prevent the drawbar from dropping to the ground if the drawbar fails.

(d) Subdivision (a) does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly, and it does not apply to a towed motor vehicle when steered by a person who holds a license for the type of vehicle being towed.

(e) For purposes of this section, a "tow truck" includes both of the following:

(1) A repossessor's tow vehicle, as defined in subdivision (b) of Section 615.

(2) An automobile dismantler's tow vehicle, as defined in subdivision (c) of Section 615.

(f) Vehicles towed by a repossessor's tow vehicle, as defined in subdivision (b) of Section 615, are exempt from the multisafety chain requirement of paragraph (2) of subdivision (a) so long as the vehicle is not towed more than one mile from the point of repossession and is secured by one safety chain.

(g) This section shall become operative only if Senate Bill 378 of the 1999–2000 Regular Session is enacted and becomes operative and amends Section 615 of the Vehicle Code.

SEC. 46. Section 34500 of the Vehicle Code is amended to read:

34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

(c) Buses, schoolbuses, school pupil activity buses, youth buses, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), or (d). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(i) A park trailer, as described in subdivision (b) of Section 18010 of the Health and Safety Code, which, when moved upon a highway, is required to be moved under a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.

(k) Any commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or any commercial motor vehicle of any gross vehicle weight rating towing any vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000

pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of the subdivision, the term "commercial motor vehicle" has the meaning defined in subdivision (b) of Section 15210.

SEC. 47. Section 34520 of the Vehicle Code is amended to read:

34520. (a) Motor carriers and drivers shall comply with the controlled substances and alcohol use, transportation, and testing requirements of the United States Secretary of Transportation as set forth in Part 382 (commencing with Section 382.101) of, and Sections 392.5(a)(1) and 392.5(a)(3) of, Title 49 of the Code of Federal Regulations.

(b) (1) Every motor carrier shall make available for inspection, upon the request of an authorized employee of the department, copies of all results and other records pertaining to controlled substances and alcohol use and testing conducted pursuant to federal law, as specified in subdivision (a), including those records contained in individual driver qualification files.

(2) For the purposes of complying with the return-to-duty alcohol or controlled substances test requirements, or both, of Section 382.309 of Title 49 of the Code of Federal Regulations and the followup alcohol or controlled substances test requirements, or both, of Section 382.311 of that title, the department may use those test results to monitor drivers who are motor carriers.

(3) No evidence derived from a positive test result in the possession of a motor carrier shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) Any drug or alcohol testing consortium, as defined in Section 382.107 of Title 49 of the Code of Federal Regulations, shall mail a copy of all drug and alcohol positive test result summaries to the department within three days of the test. This requirement applies only to drug and alcohol positive tests of those drivers employed by motor carriers who operate terminals within this state.

(d) A transit agency receiving federal financial assistance under Section 3, 9, or 18 of the Federal Transit Act, or under Section 103(e)(4) of Title 23 of the United States Code, as defined in Section 653.7 of Title 49 of the Code of Federal Regulations, concerning controlled substance use, and Section 654.7 of Title 49 of the Code of Federal Regulations, concerning alcohol abuse, shall comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 653 (commencing with Section 653.1) of, and Part 654 (commencing with Section 654.1) of, Title 49 of the Code of Federal Regulations.

(e) It is a misdemeanor punishable by imprisonment in the county jail for six months and a fine not to exceed five thousand dollars ($5,000), or by both the imprisonment and fine, for any person to willfully violate this section. As used in this subdivision, "willfully" has the same meaning as defined in Section 7 of the Penal Code.

(f) This section does not apply to a peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, who is authorized to drive vehicles described in Section 34500 if that peace officer is participating in a substance abuse detection program within the scope of his or her employment.

SEC. 48. Section 34631.5 of the Vehicle Code is amended to read:

34631.5. (a) (1) Every motor carrier of property as defined in Section 34601, except those subject to paragraph (2), (3), or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law upon those carriers for the payment of damages in the amount of a combined single limit of not less than seven hundred fifty thousand dollars ($750,000) on account of bodily injuries to, or death of, one or more persons, or damage to or destruction of, property other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(2) Every motor carrier of property, as defined in Section 34601, who operates only vehicles under 10,000 pounds GVWR and who does not transport any commodity subject to paragraph (3) or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law for the payment of damages caused by bodily injuries to or the death of any person; or for damage to or destruction of property of others, other than property being transported by the carrier, in an amount not less than three hundred thousand dollars ($300,000).

(3) Every intrastate motor carrier of property, as defined in Section 34601, who transports petroleum products in bulk, including waste petroleum and waste petroleum products, shall provide and thereafter continue in effect adequate protection against liability imposed by law upon the carrier for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than five hundred thousand dollars ($500,000) on account of bodily injuries to, or death of, one person; and protection against a total liability of those carriers on account of bodily injuries to, or death of more than one person as a result of any one accident, but subject to the same limitation for each person in the amount of not less than one million dollars ($1,000,000); and protection in an amount of not less than two hundred thousand dollars ($200,000) for one accident resulting in damage to or destruction to property other than property being transported by the carrier for any shipper or consignee, whether the property of one or more than one claimant; or a combined single limit in the amount of not less than one million two hundred thousand dollars ($1,200,000) on account of bodily injuries to, or death of, one or more persons or damage to or destruction of property, or both, other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(4) Except as provided in paragraph (3), every motor carrier of property, as defined in Section 34601, that transports any hazardous material, as defined by Section 353, shall provide and thereafter continue in effect adequate protection against liability imposed by law on those carriers for the payment of damages for personal injury or death, and damage to or destruction of property, in amounts of not less than the minimum levels of financial responsibility specified for carriers of hazardous materials by the United States Department of Transportation in Part 387 (commencing with Section 387.1) of Title 49 of the Code of Federal Regulations. The applicable minimum levels of financial responsibility required are as follows:

	Commodity Transported:	Combined Single Limit Coverage
(A)	Oil listed in Section 172.101 of Title 49 of the Code of Federal Regulations; or hazardous waste, hazardous materials and hazardous substances defined in Section 171.8 of Title 49 of the Code of Federal Regulations and listed in Section 172.101 of Title 49 of the Code of Federal Regulations, but not mentioned in subparagraph (C) or (D).	$1,000,000
(B)	Hazardous waste as defined in Section 25117 of the Health and Safety Code and in Article 1 (commencing with Section 66261.1) of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, but not mentioned in subparagraph (C) or (D).	$1,000,000
(C)	Hazardous substances, as defined in Section 171.8 of Title 49 of the Code of Federal Regulations, or liquefied compressed gas or compressed gas, transported in cargo tanks, portable tanks, or hopper-type vehicle with capacities in excess of 3,500 water gallons.	$5,000,000
(D)	Any quantity of division 1.1, 1.2, or 1.3 explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in Section 173.403 of Title 49 of the Code of Federal Regulations.	$5,000,000

(b) (1) The protection required under subdivision (a) shall be evidenced by the deposit with the department, covering each

vehicle used or to be used in conducting the service performed by each motor carrier of property, an authorized certificate of public liability and property damage insurance, issued by a company licensed to write the insurance in the State of California, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code.

(2) The protection required under subdivision (a) by every motor carrier of property engaged in interstate or foreign transportation of property in or through California, shall be evidenced by the filing and acceptance of a department authorized certificate of insurance, or qualification as a self-insurer as may be authorized by law.

(3) A certificate of insurance, evidencing the protection, shall not be cancelable on less than 30 days' written notice to the department, the notice to commence to run from the date notice is actually received at the office of the department in Sacramento.

(4) Every insurance certificate or equivalent protection to the public shall contain a provision that the certificate or equivalent protection shall remain in full force and effect until canceled in the manner provided by paragraph (3).

(5) Upon cancellation of an insurance certificate or the cancellation of equivalent protection authorized by the Department of Motor Vehicles, the motor carrier permit of any motor carrier of property, shall stand suspended immediately upon the effective date of the cancellations.

(6) No carrier shall engage in any operation on any public highway of this state during the suspension of its permit.

(7) No motor carrier of property, whose permit has been suspended under paragraph (5) shall resume operations unless and until the carrier has filed an insurance certificate or equivalent protection in effect at the time and that meets the standards set forth in this section. The operative rights of the complying carriers shall be reinstated from suspension upon the filing of an insurance certificate or equivalent protection.

(8) In order to expedite the processing of insurance filings by the department, each insurance filing made should contain the insured's California carrier number, if known, in the upper right corner of the certificate.

(c) (1) Notwithstanding any other provision of law, the operator of a for-hire tow truck who is in compliance with subdivision (a) may perform emergency moves, irrespective of the load carried aboard the vehicle being moved.

(2) For the purposes of paragraph (1), an "emergency move" is limited to one or more of the following activities:

(A) Removal of a disabled or damaged vehicle or combination of vehicles from a highway.

(B) Removal of a vehicle or combination of vehicles from public or private property following a traffic collision.

(C) Removal of a vehicle or combination of vehicles from public or private property to protect public health, safety, or property.

(D) Removal of a vehicle or combination of vehicles from any location for impound or storage, at the direction of a peace officer.

(3) The authority granted under paragraph (1) applies only to the first one-way carriage of property from the scene of the emergency to the nearest safe location. Any subsequent move of that property shall be subject to subdivision (a), including, but not limited to, a requirement that the for-hire tow truck operator have a level of liability protection that is adequate for the commodity being transported by the towed vehicle or combination of vehicles.

(4) Any transportation of property by an operator of an operator of a for-hire tow truck that is not an emergency move, as authorized under paragraph (1), shall be subject to subdivision (a), including, but not limited to, a requirement that the for-hire tow truck operator have a level of liability protection that is adequate for the commodity being transported by the towed vehicle or combination of vehicles.

SEC. 49. Section 35106 of the Vehicle Code is amended to read:

35106. (a) Motor coaches or buses may have a maximum width not exceeding 102 inches.

(b) Notwithstanding subdivision (a), motor coaches or buses operated under the jurisdiction of the Public Utilities Commission in urban or suburban service may have a maximum outside width not exceeding 104 inches, when approved by order of the Public Utilities Commission for use on routes designated by it. Motor coaches or buses operated by common carriers of passengers for hire in urban or suburban service and not under the jurisdiction of the Public Utilities Commission may have a maximum outside width not exceeding 104 inches.

(c) (1) Notwithstanding subdivision (a), motor coaches and buses operated within local ski area jurisdictions may be equipped with a winter recreational equipment carrying device that does not extend more than four inches on the right side for a maximum outside width not exceeding 106 inches. Motor coaches or buses operating pursuant to this subdivision may not operate on highways designated as part of the national network under Appendix A to Section 658 of Title 23 of the Code of Federal Regulations, or where prohibited by the Department of Transportation or local authorities. The motor coaches and buses described in this subdivision may be operated only if all of the following conditions are satisfied with respect to motor coaches and buses:

(A) They may only be operated from November 1 to May 31, inclusive, of each year.

(B) All accidents involving them shall be reported to the Department of the California Highway Patrol.

(2) Notwithstanding the provisions of Section 7550.5 of the Government Code, the Department of the California Highway Patrol, in consultation with the Department of Transportation, shall conduct a study on the effect that the exemption provided under this section has on public safety.

(d) 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. 50. Section 35106 is added to the Vehicle Code, to read:

35106. (a) Motor coaches or buses may have a maximum width not exceeding 102 inches.

(b) Notwithstanding subdivision (a), motor coaches or buses operated under the jurisdiction of the Public Utilities Commission in urban or suburban service may have a maximum outside width not exceeding 104 inches, when approved by order of the Public Utilities Commission for use on routes designated by it. Motor coaches or buses operated by common carriers of passengers for hire in urban or suburban service and not under the jurisdiction of the Public Utilities Commission may have a maximum outside width not exceeding 104 inches.

(c) This section shall become operative on January 1, 2002. (Amended by Stats. 1982, Ch. 827, Sec. 5. Effective September 10, 1982.)

SEC. 51. Section 40001 of the Vehicle Code is amended to read:

40001. (a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

(b) It is unlawful for an owner to request, cause, or permit the operation of any vehicle that is any of the following:

(1) Not registered or for which any fee has not been paid under this code.

(2) Not equipped as required in this code.

(3) Not in compliance with the size, weight, or load provisions of this code.

(4) Not in compliance with the regulations promulgated pursuant to this code, or with applicable city or county ordinances adopted pursuant to this code.

(5) Not in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board.

(c) Any employer who violates an out-of-service order, that complies with Section 396.9 of Title 49 of the Code of Federal Regulations, or who knowingly requires or permits a driver to violate or fail to comply with that out-of-service order, is guilty of a misdemeanor.

(d) Whenever a violation is chargeable to the owner or lessee of a vehicle pursuant to subdivision (a) or (b), the driver shall not be arrested or cited for the violation unless the vehicle is registered in a state or country other than California, or unless the violation is for an offense that is clearly within the responsibility of the driver. The Department of the California Highway Patrol shall report to the

Legislature on or before January 1, 1988, concerning the effects of this subdivision.

(e) Whenever the owner, or lessee, or any other person is prosecuted for a violation pursuant to this section, the court may, on the request of the defendant, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance or operation of the vehicle, or any other person who gives false or erroneous information in a written certification of actual gross weight, a codefendant. However, the court may make the driver a codefendant only if the driver is the owner or lessee of the vehicle, or the driver is an employee or a contractor of the defendant who requested the court to make the driver a codefendant. If the codefendant is held solely responsible and found guilty, the court may dismiss the charge against the defendant.

(f) In any prosecution under this section, it is a rebuttable presumption that any person who gives false or erroneous information in a written certification of actual gross cargo weight has directed, requested, caused, or permitted the operation of a vehicle in a manner contrary to law in violation of subdivision (a) or (b), or both.

SEC. 52. Section 40303 of the Vehicle Code is amended to read:

40303. Whenever any person is arrested for any of the following offenses and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear as provided in this section or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made:

(a) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(b) Section 23103 or 23104, relating to reckless driving.

(c) Subdivision (a) of Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle under Section 2804 hereof, which is punishable as a misdemeanor.

(d) Subdivision (a) of Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Subdivision (a) of Section 2800, relating to the refusal to submit vehicle and load to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(f) Subdivision (a) of Section 2800, insofar as it relates to any driver who continues to drive after being lawfully ordered not to drive by a member of the California Highway Patrol for violating the

driver's hours of service or driver's log regulations adopted pursuant to subdivision (a) of Section 34501.

(g) Subdivision (b) of Section 2800, relating to a failure or refusal to comply with any lawful out-of-service order.

(h) Section 20002 or 20003, relating to duties in the event of an accident.

(i) Section 23109, relating to participating in speed contests or exhibition of speed.

(j) Section 14601, 14601.1, 14601.2, or 14601.5, relating to driving while license is suspended or revoked.

(k) When the person arrested has attempted to evade arrest.

(*l*) Section 23332, relating to persons upon vehicular crossings.

(m) Section 2813, relating to the refusal to stop and submit a vehicle to an inspection of its size, weight, and equipment.

(n) Section 21461.5, insofar as it relates to a pedestrian who, after being cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(o) Subdivision (a) of Section 2800, insofar as it relates to a pedestrian who, after having been cited for a violation of subdivision (a) of Section 2800 for failure to obey a lawful order of a peace officer issued pursuant to Section 21962, is within 24 hours again found upon the bridge or overpass and thereafter refuses to leave after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(p) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or any drug.

SEC. 53. Section 42001.1 of the Vehicle Code is amended to read:

42001.1. (a) Every person convicted of an infraction for a violation of Section 2815 or a violation of Section 22526 at an intersection posted pursuant to subdivision (d) of Section 22526 shall be punished as follows:

(1) For a first conviction, a fine of not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(2) For a second conviction within a period of one year, a fine of not less than one hundred dollars ($100) nor more than two hundred dollars ($200).

(3) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

(b) In addition to the fine specified in subdivision (a), the court may order the department to suspend the driver's license for up to 30 days of any person convicted of a third or any subsequent conviction of Section 2815 within a period of two years, and the

department shall suspend the license for the period of time so ordered.

SEC. 54. Section 42005 of the Vehicle Code is amended to read:

42005. (a) The court may order any person convicted of a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(b) In lieu of adjudicating a traffic offense, and with the consent of the defendant, or after conviction of a traffic offense, the court may order any person issued a notice to appear for a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(c) Except as otherwise provided in subdivision (d), any person so ordered may choose the traffic violator school the person will attend. The court shall make available to each person subject to such an order the current list of traffic violator schools published by the department pursuant to Section 11205.

(d) In those counties where, prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of traffic safety instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools which are under contract with the court or with the county to provide traffic safety instructional services for persons referred pursuant to subdivision (a).

(e) A county described in Section 28023 of the Government Code may continue to provide the program authorized by this section in accordance with the provisions of current and future contracts as may be amended and approved by the individual courts within that county and the county shall be exempt from state regulations relative to maximum classroom attendance.

(f) Notwithstanding subdivision (b), a court may not order a person to attend traffic violator school in lieu of adjudicating an offense if the person was issued a notice to appear for a serious traffic violation, as defined in subdivision (i) of Section 15210, that occurred in a commercial motor vehicle, as defined in subdivision (b) of Section 15210.

(g) Any person who willfully fails to comply with a court order to attend traffic violator school is guilty of a misdemeanor.

SEC. 55. Notwithstanding Section 16361 of the Government Code or any other provision of law, and to the extent permitted under federal law, the sum of five hundred thousand dollars ($500,000) previously appropriated to the Department of Transportation under paragraph (1) of subdivision (c) of Section 6 of Chapter 1159 of the Statutes of 1993 is hereby reappropriated to the Department of Transportation to be allocated by that department to the City of Coronado for the purposes of supplementing the funding of that city's trip reduction and air quality program.

SEC. 56. 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.

CHAPTER 725

An act to amend Sections 13480, 14058, and 78621 of, to add Division 26 (commencing with Section 79000) to, to add and repeal Section 1812.6 of, and to repeal and add Sections 78626, 78648.12, and 78675 of, the Water Code, relating to financing a safe drinking water, water quality, flood protection, and water reliability program, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Division 26 (commencing with Section 79000) is added to the Water Code, to read:

DIVISION 26. SAFE DRINKING WATER, CLEAN WATER, WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

CHAPTER 1. SHORT TITLE

79000. This division shall be known and may be cited as the Costa-Machado Water Act of 2000.

CHAPTER 2. DEFINITIONS

79005. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division.

79006. "Bay-delta" means the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

79007. "Board" means the State Water Resources Control Board.

79008. "CALFED" refers to the consortium of state and federal agencies with management and regulatory responsibilities in the

bay-delta that are developing a long-term solution to water management, environmental, and other problems in the bay-delta watershed.

79009. "Clean Water Act" means the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and includes any amendments thereto.

79010. "Committee" means the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Finance Committee created by Section 79212.

79011. "Delta" means the Sacramento-San Joaquin Delta.

79012. "Department" means the Department of Water Resources.

79013. "Fund" means the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund created by Section 79019.

CHAPTER 3. SAFE DRINKING WATER, CLEAN WATER, WATERSHED PROTECTION, AND FLOOD PROTECTION BOND FUND

79019. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund, which is hereby created.

CHAPTER 4. SAFE DRINKING WATER PROGRAM

Article 1. Definitions

79020. Unless the context otherwise requires, the following definitions govern the construction of this chapter.

(a) "Federal act" means the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), and includes any amendments thereto.

(b) "State department" means the State Department of Health Services.

(c) "Supplier" means any person, partnership, corporation, association, public agency, or other entity, including any Indian tribe having a federally recognized governing body carrying out substantial governmental duties in and powers over any area, that owns or operates a public water system.

Article 2. Safe Drinking Water State Revolving Fund

79021. The sum of seventy million dollars ($70,000,000) is hereby transferred from the fund to the Safe Drinking Water State Revolving Fund created by Section 116760.30 of the Health and Safety Code.

Article 3. Safe Drinking Water Program

79022. (a) The money transferred to the Safe Drinking Water State Revolving Fund pursuant to Section 79021, except as otherwise provided in Sections 79022.7 and 79025, shall be used by the state department for loans and grants to suppliers for the purposes of undertaking infrastructure improvements and related actions to meet safe drinking water standards, in accordance with the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code).

(b) A supplier that is eligible for grants under Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)) may concurrently make application for funds annually appropriated under the federal act and for bond proceeds made available under this chapter. The state department shall not place a public water system on the priority list for project funding or enter into a contract and award a grant or loan if a supplier has previously received a grant for public water system expenditure for the same project under Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)) or if the supplier does not have a public water system permit pursuant to Section 116525 of the Health and Safety Code. The state department may place a public water system on the priority list for funding if a supplier has not otherwise received a letter of commitment to make a grant from the Administrator of the Environmental Protection Agency after 180 days from the date of the original submission of an application for a grant under Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)).

(c) The Legislature finds and declares that Indian tribes shall be encouraged to cooperate with an adjacent public water system to determine whether the delivery of water from the public water system to the Indian tribe would be feasible and cost-effective in comparison to the improvement of a public water system owned or operated by the Indian tribe. The determination of feasibility shall include an assessment of whether the tribal water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, potable water to consumers. The Legislature further finds and declares that public water suppliers shall be encouraged to investigate opportunities for Indian tribes to deliver water beyond trust land boundaries to consumers that may not be economically served by a public water system.

(d) The state department shall encourage loan or grant applicants, where feasible, to consider the consolidation of small public water systems and community water systems with other public water systems to reduce the cost of service and improve the level of protection for consumers.

(e) To the extent that loans under this chapter that are made to a public water system regulated by the Public Utilities Commission

bear a lower interest rate than that supplier could receive from nongovernmental sources, the Public Utilities Commission shall ensure that the entire benefit of the interest rate differential shall benefit the rate payers of that system by including the lower interest rate when establishing the water system's weighted average cost of capital.

79022.5. Any repayment of loans made pursuant to this article, including interest payments, and all interest earnings on or accruing to, any money resulting from the implementation of this chapter in the Safe Drinking Water State Revolving Fund shall be deposited in that fund and shall be available for the purposes of this chapter.

79022.7. Notwithstanding Item No. 4260-115-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999), no money transferred to the Safe Drinking Water State Revolving Fund pursuant to this article may be transferred to the General Fund.

79023. There is hereby created in the Safe Drinking Water State Revolving Fund the Technical Assistance Account.

79024. Of the funds transferred pursuant to Section 79021, the sum of two million dollars ($2,000,000) is hereby transferred from the Safe Drinking Water State Revolving Fund to the Technical Assistance Account.

79025. (a) Notwithstanding Section 13340 of the Government Code, the money in the Technical Assistance Account is hereby continuously appropriated, without regard to fiscal years, to the state department, to provide technical assistance to public water systems in the state in accordance with Section 300j-12(g)(2) of the federal act (42 U.S.C. Sec. 1452(g)(2)). For the purposes of this section, "technical assistance" includes assistance to disadvantaged communities, including Indian tribes.

(b) In carrying out its responsibilities under subdivision (a), the state department may do any of the following:

(1) Assess the technical, managerial, and financial capability of a disadvantaged community.

(2) Assist an applicant in the preparation of an application for funding under Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code or Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)).

(3) Conduct workshops in locations in or near disadvantaged communities to provide information regarding grants or loans for the design and construction of projects for public water systems.

79026. Not more than 3 percent of the total amount deposited in the account may be used to pay costs incurred in connection with the administration of this chapter.

CHAPTER 5. FLOOD PROTECTION PROGRAM

Article 1. Flood Protection Account

79030. For the purposes of this chapter, "account" means the Flood Protection Account created by Section 79031.

79031. The Flood Protection Account is hereby created in the fund. The sum of two hundred ninety-two million dollars ($292,000,000) is hereby transferred from the fund to the account.

Article 2. Floodplain Mapping Program

79033. (a) There is hereby created in the account the Floodplain Mapping Subaccount.

(b) The sum of two million five hundred thousand dollars ($2,500,000) is hereby transferred from the account to the Floodplain Mapping Subaccount for the purposes of implementing this article.

79033.2. (a) There is hereby created in the account the Agriculture and Open Space Mapping Subaccount.

(b) The sum of two million five hundred thousand dollars ($2,500,000) is hereby transferred from the account to the Agriculture and Open Space Mapping Subaccount.

79033.4. The money in the Floodplain Mapping Subaccount, upon appropriation by the Legislature to the department, may be used by the department for the purpose of assisting local land-use planning, and to avoid or reduce future flood risks and damages. The use of the funds in that subaccount by the department shall include, but is not limited to, all of the following:

(a) Mapping newly identified floodplains.

(b) Mapping rural areas with potential for urbanization.

(c) Mapping flood hazard areas with undefined 100-year flood elevations.

(d) Updating outdated floodplain maps.

(e) Accelerating mapping of riverine floodplains, alluvial fans, and coastal flood hazard areas.

(f) Collecting topographic and hydrographic survey data.

79033.6. (a) The money in the Agriculture and Open Space Mapping Subaccount, upon appropriation by the Legislature to the Department of Conservation, may be used by the Department of Conservation for the purposes of assisting local land-use planning by making available Important Farmland Series maps and Interim Farmland maps, as those terms are defined in Section 65570 of the Government Code. The information provided by the Department of Conservation is intended for local government use in conjunction with floodplain and flood hazard maps developed by the department to protect agricultural land resources coincident with avoidance or reduction of future flood risk and damage to residential or commercial land uses. The use of the funds in that subaccount by the

Department of Conservation shall include, but is not limited to, all of the following:

(1) Accelerating production of Important Farmland Series maps and Interim Farmland maps.

(2) Increasing the coverage and availability of soil surveys conducted by the United States Natural Resource Conservation Service.

(3) Increasing topographic, soil, and agricultural crop data collection and enhancing data gathering capability.

(4) Developing integrated mapping that incorporates Important Farmland Series mapping and Interim Farmland mapping data with other relevant information, including, but not limited to, floodplain or flood hazard information, planning designation, and other land and natural resource data.

(b) For the purposes of this article, "maps" and "mapping" may include digital map files.

Article 2.5. Flood Protection Corridor Program

79035. (a) There is hereby created in the account the Flood Protection Corridor Subaccount.

(b) For the purposes of this article, "subaccount" means the Flood Protection Corridor Subaccount created by subdivision (a).

79036. The sum of seventy million dollars ($70,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79037. (a) The money in the subaccount, upon appropriation by the Legislature to the department, may be used by the department for flood control projects through direct expenditure for the acquisition, restoration, enhancement, and protection of real property for the purposes of flood control protection, agricultural land preservation, and wildlife habitat protection, and for grants to local public agencies or nonprofit organizations for these purposes, and for related administrative costs.

(b) The money in the subaccount, upon appropriation by the Legislature, shall be used for the protection, creation, and enhancement of flood protection corridors through all of the following actions:

(1) Acquiring easements and other interests in real property from willing sellers to protect or enhance flood protection corridors and floodplains while preserving or enhancing the agricultural use of the real property.

(2) Setting back existing flood control levees and, in conjunction with undertaking those setbacks, strengthening or modifying existing levees.

(3) Acquiring interests in real property from willing sellers located in a floodplain that cannot reasonably be made safe from future flooding.

(4) Acquiring easements and other interests in real property from willing sellers to protect or enhance flood protection corridors while preserving or enhancing the wildlife value of the real property.

79038. (a) For the purposes of this article, the department shall give highest priority to projects that include either of the following:

(1) Projects that have been assigned high priority for completion by the department for flood protection purposes and by the Department of Conservation for purposes of preserving agricultural land in accordance with the Agricultural Land Stewardship Program Act of 1995 (Division 10.2 (commencing with Section 10200) of the Public Resources Code).

(2) Projects that have been assigned high priority for completion by the department for flood protection purposes and by the Department of Fish and Game for wildlife habitat protection or restoration purposes.

(b) For restoration, enhancement, and protection projects, the services of the California Conservation Corps or community conservation corps shall be used whenever feasible.

79039. (a) In order to ensure that property acquired under paragraph (1) of subdivision (b) of Section 79037 remains on the county tax rolls and in agricultural use to the greatest extent practicable, the acquisition of easements shall be the preferred method of acquiring property interests under that paragraph unless the acquisition of a fee interest is required for management purposes or the landowner will only consider the sale of a fee interest in the land. No acquisition of a fee interest shall be undertaken under paragraph (1) of subdivision (b) of Section 79037 until all practical alternatives have been considered by the department.

(b) Any proceeds received from the disposal of a fee interest acquired under this article shall be deposited into the subaccount.

79040. Any acquisition pursuant to this article shall be from a willing seller.

79041. Prior to acquiring an easement or other interest in land pursuant to this article, the project shall include a plan to minimize the impact on adjacent landowners. The plan shall include, but not be limited to, an evaluation of the impact on floodwaters, the structural integrity of affected levees, diversion facilities, customary agricultural husbandry practices, and timber extraction operations, and an evaluation with regard to the maintenance required of any facilities that are proposed to be constructed or altered.

79042. Prior to acquiring an easement or other interest in land pursuant to this article, a public hearing in the local community shall be held. Notification shall be given to the county board of supervisors of the affected county, adjacent landowners, affected water districts, local municipalities, and other interested parties, as determined by the department.

79043. Money in the subaccount may be used, upon appropriation by the Legislature, to repair breaches in the flood control system

developed pursuant to this article or caused by the development of an easement program financed through this section and to repair water diversion facilities or flood control facilities damaged by a project developed pursuant to this section or financed pursuant to this section.

79044. (a) (1) In expending grant money pursuant to this article to acquire an interest in any particular parcel of land, a local public agency or nonprofit organization may use the money to establish a trust fund in the amount of not more than 20 percent of the amount of money paid for the acquisition. Interest from the trust fund shall be used only to maintain the lands that are acquired pursuant to this chapter.

(2) A local public agency or nonprofit organization that acquires land with money from the subaccount and transfers the land to another public agency or nonprofit organization shall also transfer the ownership of the trust fund that was established to maintain that land.

(b) If the local public agency or nonprofit organization does not establish a trust fund pursuant to subdivision (a), it shall certify to the department that it can maintain the land to be acquired from funds otherwise available to the agency or organization.

(c) This section does not apply to state agencies.

79044.5. (a) It is the intent of the Legislature to address the problem of soaring federal flood insurance rates by assisting local governments to meet technical requirements for participation in the National Flood Insurance Program and the National Flood Insurance Program's Community Rating System.

(b) Notwithstanding any other provision of this article, of the funds transferred pursuant to Section 79036, the sum of one million dollars ($1,000,000) is hereby continuously appropriated, without regard to fiscal years, to the department, as follows:

(1) Five hundred thousand dollars ($500,000) to educate and provide technical assistance to cities and counties regarding the National Flood Insurance Program and the enrollment process.

(2) Five hundred thousand dollars ($500,000) to educate and provide technical assistance to cities and counties currently enrolled in the National Flood Insurance Program with regard to the National Flood Insurance Program's Community Rating System and the implementation of activities creditable under that system.

79044.6. Notwithstanding any other provision of this article, the sum of five million dollars ($5,000,000), upon appropriation by the Legislature to the department, shall be allocated by the department to the City of Santee for the purposes of flood protection for streets and highways.

79044.7. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay costs incurred in connection with the administration of this article.

79044.9. The department may adopt regulations to carry out this article.

Article 3. Delta Levee Rehabilitation Program

79045. (a) There is hereby created in the account the Delta Levee Rehabilitation Subaccount.

(b) For the purposes of this article, "subaccount" means the Delta Levee Rehabilitation Subaccount created by subdivision (a).

79046. The sum of thirty million dollars ($30,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article pursuant to Section 12986.

79047. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department, as follows:

(a) Fifteen million dollars ($15,000,000) for local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6, and for the administration of that assistance.

(b) Fifteen million dollars ($15,000,000) for special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6, subsidence studies and monitoring, and for the administration of this subdivision. Allocation of these funds shall be for flood protection projects on Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell, and Webb Islands, and at other locations in the delta.

(c) Any funds that are made available under subdivision (a) may be used to reimburse local agencies for the state's share of costs for eligible projects completed on or after July 1, 1998.

79048. The expenditure of funds under this article is subject to Chapter 1.5 (commencing with Section 12306) of Part 4.8 of Division 6.

79049. Of the funds appropriated pursuant to subdivision (a) or (b) of Section 79047, not more than 5 percent may be expended by the department to repair levee road pavement if the damage is attributable to flood control maintenance.

79050. No expenditure of funds may be made under this article unless the Department of Fish and Game makes a written determination as part of its review and approval of a plan or project pursuant to Section 12314 or 12987. The Department of Fish and Game shall make its determination in a reasonable and timely manner following the submission of the project or plan to that department. For the purposes of this article, an expenditure may include more than one levee project or plan.

79051. For the purposes of this article, a levee project includes levee improvements and related habitat improvements undertaken in the delta at a location other than the location of that levee improvement.

79052. Following the date on which a program for the bay-delta is adopted by CALFED, the remaining funds in the subaccount shall be used for levee rehabilitation improvement projects that, to the greatest extent possible, are consistent with the program adopted by CALFED.

Article 4. Flood Control Subventions Program

79055. (a) There is hereby created in the account the Flood Control Subventions Subaccount.

(b) For the purposes of this article, "subaccount" means the Flood Control Subventions Subaccount created by subdivision (a).

79056. The sum of forty-five million dollars ($45,000,000) is hereby transferred from the fund to the subaccount.

79057. (a) Notwithstanding Section 13340 of the Government Code, or any other provision of law, the money in the subaccount is hereby continuously appropriated, without regard to fiscal year, to the department to pay for the state's share of the nonfederal costs of flood control and flood prevention projects adopted and authorized as of January 1, 1999, under The State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6), The Flood Control Law of 1946 (Chapter 3 (commencing with Section 12800) of Part 6 of Division 6), and The California Watershed Protection and Flood Prevention Law (Chapter 4 (commencing with Section 12850) of Part 6 of Division 6), including the credits and loans to local agencies pursuant to Sections 12585.3 and 12585.4, subdivision (d) of Section 12585.5, and Sections 12866.3 and 12866.4, and to implement Chapter 3.5 (commencing with Section 12840) of Part 6 of Division 6.

(b) The money in the subaccount shall be allocated only to projects in the Counties of Contra Costa, Fresno, Kern, Los Angeles, Marin, Napa, Orange, Riverside, San Bernardino, San Diego, Santa Clara, Sonoma, and Ventura.

(c) It is the intent of the Legislature that the state's share of the nonfederal costs of projects for flood control and flood prevention adopted and authorized after January 1, 2001, shall not exceed that portion of the nonfederal costs authorized pursuant to Chapter 1 (commencing with Section 12570) of Part 6 or any amendments thereto.

Article 5. Urban Stream Restoration Program

79060. (a) There is hereby created in the account the Urban Stream Restoration Subaccount.

(b) For the purposes of this article, "subaccount" means the Urban Stream Restoration Subaccount created by subdivision (a).

79061. The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79062. The money in the subaccount, upon appropriation by the Legislature to the department, may be used by the department for both of the following:

(a) Grants to local agencies and nonprofit organizations for effective, low-cost flood control projects pursuant to Section 7048.

(b) Grants to local community conservation corps and other nonprofit corporations for local stream clearance, flood mitigation, and cleanup activities.

79062.5. Notwithstanding any other provision of law, regulations set forth in Chapter 2.4 (commencing with Section 451.1) of Division 2 of Title 23 of the California Code of Regulations that are in effect on March 8, 2000, may be used to carry out this article.

Article 6. Capital Area Flood Protection Program

79065. The Legislature hereby finds and declares all of the following:

(a) Since Sacramento, the state capital, was founded over 150 years ago, it has suffered from flood disasters because of inadequate flood protection. Each year, the State Capitol and more than 1,300 other government-owned buildings and infrastructure of the capital region are at risk because of their location in the worst protected urban area in the country.

(b) The State of California's investment of money and other resources in the state's seat of government is important to preserve and protect.

(c) It is in the best interest of this state to invest in a cost-shared program to protect life and property in the state capital from flooding, thus resulting in opportunities for sustainable economic development and continued protection of the state's natural resources.

(d) The Congress and the President of the United States have recognized the national importance of increasing the level of the state capital's flood protection by authorizing projects in the Water Resources Development Act of 1999.

79065.2. (a) There is hereby created in the account the State Capital Protection Subaccount.

(b) For purposes of this article, "subaccount" means the State Capital Protection Subaccount created by subdivision (a).

79065.4. The sum of twenty million dollars ($20,000,000) is hereby transferred from the account to the subaccount for the purposes of this article.

79065.6. The money in the subaccount, upon appropriation by the Legislature to the Sacramento Area Flood Control Agency, may be used by the Sacramento Area Flood Control Agency to pay the state's

share of the costs of flood management projects authorized by the United States to improve the level of flood protection in the state capital region.

79065.8. No money deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 7. San Lorenzo River Flood Control Program

79067. (a) There is hereby created in the account the San Lorenzo River Flood Control Subaccount.

(b) For purposes of this article, "subaccount" means the San Lorenzo River Flood Control Subaccount created by subdivision (a).

79067.2. The sum of two million dollars ($2,000,000) is hereby transferred from the account to the subaccount for the purposes of this article.

79067.4. The money in the subaccount, upon appropriation by the Legislature to the department, shall be allocated by the department to the City of Santa Cruz to pay for the state's share of the costs of flood management projects authorized by the United States to improve the level of flood protection in the Santa Cruz region.

Article 8. Yuba Feather Flood Protection Program

79068. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this article.

(a) "Nonstructural improvements" are projects that are intended to reduce or eliminate susceptibility to flooding by preserving or increasing the flood-carrying capacity of floodways, and include such measures as levees, setback levees, floodproofing structures, and zoning, designating, or acquiring flood prone areas.

(b) "Structural improvements" are projects that are intended to modify flood patterns and rely primarily on constructed components, and include such measures as levees, floodwalls, and improved channels.

(c) "Subaccount" means the Yuba Feather Flood Protection Subaccount created by Section 79068.2.

79068.2. There is hereby created in the account the Yuba Feather Flood Protection Subaccount.

79068.4. The sum of ninety million dollars ($90,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79068.6. Seventy million dollars ($70,000,000) in the subaccount, upon appropriation by the Legislature to the department or Reclamation Board, shall be used by the department or Reclamation Board to fund one or more of the following flood protection projects to be implemented by a local public entity that has legal authority

and jurisdiction to implement a flood control program along the Yuba and Feather Rivers and their tributaries:

(a) The construction or improvements of weirs, bypasses, and channels.

(b) The construction of levees or improving publicly maintained levees, including, but not limited to, setback levees, training walls, floodwalls, and streambank protection projects, which provide flood protection or flood damage reduction.

(c) The modification or reoperation of existing dams and waterworks, including spillways or other capital outlay facilities, for the purpose of increased efficiency in managing flood waters.

(d) The installation of tailwater suppression systems, detention basins, relief wells, test wells, flood warning systems, and telemetry devices.

(e) The relocation or floodproofing of structures within floodplains, which meet or exceed a community's floodplain regulations, pursuant to the National Flood Insurance Program.

(f) Implementation of watershed projects, which provide flood protection or flood damage reduction.

(g) The construction of, or improvement to, a state or interstate highway, county road, or a levee road, that is designated a flood emergency evacuation route, or that provides access to a levee for emergency vehicles, flood fights, or levee repair and maintenance, or a project that protects such a road or highway.

(h) The purchase of lands, easements, and rights-of-way.

(i) Capital costs of environmental mitigation.

79068.8. No expenditures of state funds may be made under this article until the department or the Reclamation Board determines that all of the following requirements have been met:

(a) There is a final environmental document prepared pursuant to the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code).

(b) The project is in compliance with the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as demonstrated by documentation such as comments received from the Department of Fish and Game, a permit obtained from the Department of Fish and Game or other appropriate evidence.

(c) The local project proponent agrees to pay at least that portion of the nonfederal capital costs of the project required by Section 12585.5.

(d) The local project proponent agrees to operate and maintain the completed project.

(e) The local project proponent enters into an agreement indemnifying and holding the state, its agencies, officers and employees free and harmless from any and all liability arising out of the design, construction, operation and maintenance of the project.

(f) The project is recommended for implementation by the department or the Reclamation Board.

79068.10. All of the following factors shall be considered by the department and the Reclamation Board for prioritizing projects:

(a) Potential loss of life from flooding.

(b) Increased flood protection or flood damage reduction for areas that have the greatest flood risk or have experienced repetitive flood loss.

(c) The local community is a small community with financial hardship.

(d) Projects that provide multiple benefits.

(e) Projects that are implemented in accordance with the Sacramento/San Joaquin River Basins Comprehensive Study.

(f) Projects that are implemented pursuant to the completion of feasibility studies conducted by the United States Army Corps of Engineers or local agencies.

(g) Projects along the Yuba and Feather Rivers and their tributaries.

(h) Projects that address regional flood problems.

(i) Projects along the Colusa Drain and its tributaries.

(j) Minimizing impacts to the environment.

79068.12. Of the fund appropriated pursuant to Section 79068.6, two million six hundred thousand dollars ($2,600,000) in the subaccount shall be used for the local share of levee repairs and enhancements in Sutter County.

79068.14. (a) Twenty million dollars ($20,000,000) in the subaccount, upon appropriation to the Department of Fish and Game, may be used by that department, if it determines that any flood control project undertaken pursuant to this article would result in a reduction of, or damage to, fish, wildlife, or riparian habitat, to protect, improve, restore, create, or enhance fish, wildlife, and riparian habitat of a comparable type to that which was reduced or damaged.

(b) Any land acquired pursuant to this section shall be acquired from willing sellers.

79068.16. If all of the funds appropriated pursuant to Section 79068.6 are encumbered, and any funds described in Section 79068.14 are not needed for the purposes of that section, as stated in writing by that department to the Legislature, the Legislature may appropriate the funds not needed for the purposes of Section 79068.14 for the purposes of Article 4 (commencing with Section 79055).

79068.18. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this chapter.

79068.20. The department and board may adopt regulations to carry out this article.

Article 9. Arroyo Pasajero Watershed Program

79069. The Legislature hereby finds and declares all of the following:

(a) The Arroyo Pasajero Watershed incurred unprecedented flooding in 1995 that resulted in a loss of lives due to a bridge failure on Interstate Highway Route 5 (I-5).

(b) Flooding in the watershed cause damage to important federal, state, and local public facilities, including the Lemoore Naval Air Station, Interstate Highway Route 5 (I-5), the California Aqueduct, and critical local roads and highways, as well as private property.

(c) It is of statewide importance to undertake projects to eliminate future flooding in the watershed in order to protect life and property and to protect the drinking water supply of southern California.

79069.2. Unless the context otherwise requires, the definitions set forth in this section govern construction of this article.

(a) "Subaccount" means the Arroyo Pasajero Watershed Subaccount created pursuant to Section 79069.4.

(b) "Watershed" means the Arroyo Pasajero Watershed.

79069.4. There is hereby created in the account the Arroyo Pasajero Watershed Subaccount. The sum of five million dollars ($5,000,000) is hereby transferred from the account to the subaccount for the purposes of this article.

79069.6. The money in the subaccount, upon appropriation by the Legislature to the department, shall be used by the department for projects that improve flood protection for State Highway Route 269 in the area north of the City of Huron or improve flood control for the California Aqueduct in the area of the Arroyo Pasajero Crossing.

79069.8. For the purposes of carrying out projects pursuant to this article, the department is encouraged to utilize the services of the California Conservation Corps or community conservation corps or both.

79069.10. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay costs incurred in connection with the administration of this article.

79069.12. The department may adopt regulations to carry out this article.

CHAPTER 6. WATERSHED PROTECTION PROGRAM

Article 1. Watershed Protection Account

79070. For the purposes of this chapter, "account" means the Watershed Protection Account created by Section 79071.

79071. The Watershed Protection Account is hereby created in the fund. The sum of four hundred sixty-eight million dollars ($468,000,000) is hereby transferred from the fund to the account.

Article 2. Watershed Protection Program

79075. (a) There is hereby created in the account the Watershed Protection Subaccount.

(b) For the purposes of this article, "subaccount" means the Watershed Protection Subaccount created by subdivision (a).

79076. The sum of ninety million dollars ($90,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79077. The purposes of this article are to provide funds to assist in implementing watershed plans to reduce flooding, control erosion, improve water quality, and improve aquatic and terrestrial species habitats, to restore natural systems of groundwater recharge, native vegetation, water flows, and riparian zones, to restore the beneficial uses of waters of the state in watersheds, and to provide matching funds for federal grant programs.

79078. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Local agency" means any city, county, city and county, district, or other political subdivision of the state.

(b) "Local watershed group" means a group consisting of owners and managers of land within the watershed of interest, local, state, and federal government representatives, and interested persons, other than landowners, who reside or work within the watershed of interest, and may include other persons, organizations, nonprofit corporations, and businesses.

(c) "Local watershed management plan" means a document prepared by a local watershed group that sets forth a strategy to achieve an ecologically stable watershed, and that does all of the following:

(1) Defines the geographical boundaries of the watershed.

(2) Describes the natural resource conditions within the watershed.

(3) Describes measurable characteristics for water quality improvements.

(4) Describes methods for achieving and sustaining water quality improvements.

(5) Identifies any person, organization, or public agency that is responsible for implementing the methods described in paragraph (4).

(6) Provides milestones for implementing the methods described in paragraph (4).

(7) Describes a monitoring program designed to measure the effectiveness of the methods described in paragraph (4).

(d) "Municipality" has the same meaning as defined in the Clean Water Act and also includes the state or any agency, department, or political subdivision thereof, and applicants eligible for technical

assistance under Section 319 (33 U.S.C. Sec. 1329) or grants under Section 320 of the Clean Water Act (33 U.S.C. Sec. 1330).

(e) "Nonprofit organization" means any California corporation organized under Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code.

(f) "Regional board" means a regional water quality control board.

79079. The money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board for grants to municipalities, local agencies, or nonprofit organizations in accordance with this article. The grants shall be used to develop local watershed management plans or to implement projects that are consistent with local watershed management and regional water quality control plans. The board shall ensure that activities funded by these grants will be coordinated with activities undertaken by state and federal agencies, and with other appropriate watershed efforts.

79079.5. The funds used for the purposes described in Section 79079 shall be allocated as follows:

(a) Sixty percent to projects in the Counties of Los Angeles, Orange, Riverside, San Diego, San Bernardino, and Ventura.

(b) Forty percent to projects in counties not described in subdivision (a).

79080. (a) A municipality, local agency, or nonprofit organization may only receive a grant under this article if the board determines that both of the following apply:

(1) The municipality, local agency, or nonprofit organization has adequate legal authority to manage the grant money.

(2) The municipality, local agency, or nonprofit organization is a member of a local watershed group.

(b) Grants may be awarded for projects that implement methods for attaining watershed improvements or for a monitoring program described in a local watershed management plan in an amount not to exceed five million dollars ($5,000,000) per project. At least 85 percent of the total amount in the subaccount shall be used for capital outlay projects described in this subdivision.

(c) Eligible projects under this article may do any of the following:

(1) Reduce chronic flooding problems or control water velocity and volume using vegetation management or other nonstructural methods.

(2) Protect and enhance greenbelts and riparian and wetlands habitats.

(3) Restore or improve habitat for aquatic or terrestrial species.

(4) Monitor the water quality conditions and assess the environmental health of the watershed.

(5) Use geographic information systems to display and manage the environmental data describing the watershed.

(6) Prevent watershed soil erosion and sedimentation of surface waters.

(7) Support beneficial groundwater recharge capabilities.

(8) Otherwise reduce the discharge of pollutants to state waters from storm water or nonpoint sources.

(d) (1) Grants may be awarded to municipalities, local agencies, or nonprofit organizations for the development of local watershed management plans in amounts not to exceed two hundred thousand dollars ($200,000) per local watershed management plan.

(2) Funding under this subdivision may be used to develop components of local watershed management plans that contribute to the development or implementation of species recovery plans.

(e) Grants may be awarded to meet requirements for nonfederal matching funds set forth in Section 205(j) of the Clean Water Act (33 U.S.C. Sec. 1285(j)) or Section 319(h) of the Clean Water Act (33 U.S.C. Sec. 1329(h)).

(f) Projects funded under this article shall be designed to withstand substantial flooding and shall include a minimum 10-year maintenance program and shall demonstrate the potential to provide watershed benefits for 20 years.

(g) A proponent of a project funded from the subaccount, except a grant recipient pursuant to subdivision (d), shall be required to submit to the board a monitoring and reporting plan that does all of the following:

(1) Describes the baseline water quality of the waterbody impacted.

(2) Describes the manner in which the proposed watershed restoration activities are implemented.

(3) Determines the effectiveness of the watershed restoration activities in preventing or reducing pollution.

(4) Determines, to the extent feasible, the changes in the pattern of flow in affected streams, including reduction of flood flows and increases in spring, summer, and fall flows that result from the implementation of the project.

(5) Determines, to the extent feasible, the economic benefits resulting from changes determined pursuant to paragraph (3) or (4).

(h) (1) A grant applicant shall inform the board with regard to necessary public agency approvals, entitlements, and permits that may be necessary to implement the project. The municipality, local agency, or nonprofit organization shall certify to the board, at the appropriate time, that those approvals, entitlements, and permits have been granted.

(2) A grant applicant shall notify, in writing, adjoining landowners of its request for funding under this article and the scope of the project for which the funding is requested. If this paragraph requires notification of more than 200 landowners, notification may be made by letter to the owners of record of the 200 largest parcels and by publication for at least 20 days in a local newspaper of general circulation. Upon completion of the notification required under this

paragraph, the municipality, local agency, or nonprofit organization shall inform the board that the notification has occurred.

(i) The board may adopt regulations to carry out this article.

(j) In awarding grants under this article, the board shall consider the extent to which projects do the following:

(1) Consider the entire ecosystem to be protected or restored.

(2) Include definable targets and desired future conditions.

(3) Support local community institutional capacity to restore the watershed.

(4) Include community decisionmaking by affected stakeholders in project design and fund allocation.

(5) Help protect intact or nearly intact ecosystems and watersheds.

(6) Consider the economic benefits of the restoration project or program.

(7) Address the root causes of degradation, rather than the symptoms.

(8) Maximize the use of other restoration funds.

(9) Include an educational component, if appropriate.

(10) Improve the quality of drinking water and support other beneficial uses of waters of the state, including coastal waters.

79081. A grant recipient shall obtain written permission from the landowners of the parcel of land upon which the project is proposed to be carried out. The written permission shall expressly consent to the actions described in the grant application.

79082. Not more than 25 percent of a grant may be awarded in advance of actual expenditures.

79083. (a) A grant recipient shall submit to the board a report upon the completion of the project or activity funded under this article. The report shall summarize the completed project and identify additional steps necessary to achieve the purposes of the local watershed management plan. The board shall make the report available to interested federal, state, and local agencies and other interested parties.

(b) The board shall prepare and submit to the Governor a biennial report regarding the implementation of this article. The biennial report shall include, at a minimum, a discussion relating to the extent to which the purposes described in Section 79077 are being furthered by the implementation of this article.

79084. (a) Of the funds transferred pursuant to Section 79076, at least thirty-five million dollars ($35,000,000) shall be for grants to small communities.

(b) For the purposes of this article, "small community" means a municipality with a population of 10,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the population of the segment is 10,000 persons or less, with a financial hardship as determined by the board.

(c) If the board determines that any of the funds made available for grants under this section will not be encumbered for that purpose on or before January 1, 2007, the board may use these funds for other purposes of this article.

79085. The board shall give added consideration to projects that utilize the services of the California Conservation Corps, community conservation corps, or other local nonprofit entities employing underprivileged youths.

79085.5. Notwithstanding any other provision of this article, the following amounts from the subaccount, upon appropriation by the Legislature, shall be allocated as follows:

(a) The sum of two million dollars ($2,000,000) to the board for allocation to the Pajaro River Watershed Flood Prevention Authority for a hydrologic study with regard to the Pajaro River Watershed.

(b) The sum of one million dollars ($1,000,000) to the board for allocation to the County of Sonoma to develop and implement community-based watershed management activities that will protect, restore, and enhance the environmental and economic value of the Russian River Watershed in the County of Sonoma.

(c) The sum of five million dollars ($5,000,000) to the board for the Clover Creek Flood Protection and Environmental Enhancement Project to provide for the acquisition, restoration, and conservation of low-flow stream channel, open water, seasonal wetlands, riparian habitat, oak woodland regeneration, and grassland meadow preservation.

(d) The sum of two million dollars ($2,000,000) to the board to rehabilitate and improve the Clear Lake Watershed by funding one or more of the following projects or activities: Clear Lake Basin 2000 Project, aeration, wetlands restoration, fishery enhancement, and wastewater treatment, or for grants awarded by the board to local public agencies for any of these purposes. The first priority for funding under this subdivision is for a grant award to fund eligible expenses of the Basin 2000 Project.

(e) To the maximum extent feasible, the watershed restoration and flood control projects described in this subdivision shall do one or more of the following:

(1) Preserve agricultural land.

(2) Protect and enhance wildlife habitat.

(3) Protect and enhance recreational and environmental education resources.

(4) Protect lake water quality.

79086. Notwithstanding any other provision of law, the board shall terminate any grant where it is determined that the project is not providing the proposed watershed benefits.

79087. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay costs incurred in connection with the administration of this article.

79088. Where recovery plans for coho salmon, steelhead trout, or other threatened or endangered aquatic species exist, projects funded under this article shall be consistent with those plans, and to the extent feasible, shall seek to implement actions specified in those plans.

Article 3. Water and Watershed Education Program

79090. (a) There is hereby created in the account the Water and Watershed Education Subaccount.

(b) For the purposes of this article, "subaccount" means the Water and Watershed Education Subaccount created by subdivision (a).

79091. The sum of eight million dollars ($8,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79092. Three million dollars ($3,000,000) in the subaccount, upon appropriation by the Legislature to the department, may be used by the department for allocation to California State University, Fresno for the purposes of establishing and furthering the purposes of the San Joaquin Valley Water Institute at that campus.

79093. Two million dollars ($2,000,000) in the subaccount, upon appropriation by the Legislature to the department, shall be used by the department for the development of a Delta Science Center, including, but not limited to, all of the following components:

(a) Public educational opportunities.
(b) Wildlife and habitat enhancement.
(c) Preservation of agricultural lands.
(d) Enhanced levee protection and rehabilitation.
(e) Water quality improvements.
(f) Nonstructural flood protection.

79094. Three million dollars ($3,000,000) in the subaccount, upon appropriation by the Legislature to the University of California, may be used for the purpose of site acquisition, construction, and equipping of a Watershed Science Laboratory, for long-term monitoring and research with regard to the hydrology, geomorphology, water quality and aquatic and riparian ecology of the north delta and its tributary watersheds.

Article 4. River Protection Program

79100. (a) There is hereby created in the account the River Protection Subaccount.

(b) For the purposes of this article, "subaccount" means the River Protection Subaccount created by subdivision (a).

79101. The sum of ninety-five million dollars ($95,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79102. The money in the subaccount, upon appropriation by the Legislature, may be used to meet the requirements of Article 6 (commencing with Section 78682) of Chapter 6 of Division 24.

79103. At least 60 percent of the funds transferred pursuant to Section 79101 shall be used for projects that are located in, or in close proximity to, major metropolitan areas.

79103.2. Notwithstanding any other provision of this article, of the funds transferred pursuant to Section 79101, ten million dollars ($10,000,000) shall, upon appropriation to the department, be allocated to the San Joaquin River Parkway Conservancy for the purposes of the San Joaquin River Parkway.

79103.4. Notwithstanding any other provision of this article, of the funds transferred pursuant to Section 79101, two million five hundred thousand dollars ($2,500,000) in the subaccount shall be used by the department, upon appropriation, for the purpose of the Kern River Parkway Project between the mouth of Kern Canyon and Interstate Highway Route 5.

79104. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 5. Southern California Integrated Watershed Program

79104.20. The Legislature hereby finds and declares all of the following:

(a) The Santa Ana Watershed is experiencing increased water demands due to significant population growth that has caused undue infrastructure dependence and strain on imported water supplies.

(b) Regional programs have been developed to address the problems facing the watershed. These programs have four main elements, as follows:

(1) Storage of more than one million acre-feet of water from wet years in groundwater storage basins.

(2) Conservation, including water use efficiency and reclamation, that results in the substantial development of new usable supplies.

(3) Desalting and treatment of brackish water to allow poor quality water to be reclaimed and used.

(4) Enhancement of native habitat along the river and its tributaries.

(c) The water supply programs proposed by the Santa Ana Watershed Project Authority will develop significant new water supply and storage capabilities, thereby reducing the imported water needs of urban southern California, especially during dry years.

79104.22. (a) There is hereby created in the account the Santa Ana River Watershed Subaccount.

(b) For purposes of this article, "subaccount" means the Santa Ana River Watershed Subaccount created by subdivision (a).

79104.24. The sum of two hundred thirty-five million dollars ($235,000,000) is hereby transferred from the account to the subaccount.

79104.26. The money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board for allocation to the Santa Ana Watershed Project Authority for all of the following projects for the purposes of rehabilitating and improving the Santa Ana River Watershed:

(a) Basin water banking in one or more of the following basins: Chino, Colton, Orange County, Riverside, San Bernardino, and San Jacinto.

(b) Contaminant and salt removal through reclamation and desalting in Orange County, San Jacinto, or other basins in the watershed.

(c) Removal of nonnative plants, and the creation of new open space and wetlands.

(d) Programs for water conservation and efficiency and storm water capture and management.

(e) Planning and implementation of a flood control program to protect agricultural operations and adjacent property , to assist in abating the effects of waste discharges into waters of the state, consistent with the requirements of Section 13442.

79104.30. It is the intent of the Legislature to urge the federal government to allocate funds for projects to improve the Santa Ana River Watershed to match the state's financial commitment to the projects described in this article.

79104.32. It is the intent of the Legislature that the expenditure of the funds under this article be made through a broad-based watershed stakeholder process.

79104.34. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay costs incurred by the board in connection with the administration of this article.

Article 6. Lake Elsinore and San Jacinto Watershed Program

79104.100. (a) There is hereby created in the account the Lake Elsinore and San Jacinto Watershed Subaccount.

(b) For the purposes of this article, "subaccount" means the Lake Elsinore and San Jacinto Watershed Subaccount created by subdivision (a).

79104.102. The sum of fifteen million dollars ($15,000,000) is hereby transferred from the account to the subaccount.

79104.104. The money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board to rehabilitate and improve the Lake Elsinore Watershed and San Jacinto Watershed and the water quality of Lake Elsinore by funding one or more of the following projects: watershed monitoring, storm channel modification, nutrient control, aeration, wetlands restoration and

enhancement, wildlife habitat enhancement, fishery enhancement, calcium quicklime treatment, and sediment removal, or for grants awarded by the board to the Santa Ana Watershed Project Authority, other joint powers authorities, or local public agencies for any of these purposes, and for related planning and administrative costs.

79104.106. To the maximum extent feasible, the watershed management and flood control projects described in Section 79104.104 shall do one or more of the following:

(a) Preserve agricultural land.

(b) Protect wildlife habitat.

(c) Protect and enhance recreational resources.

(d) Improve lake water quality.

79104.108. It is the intent of the Legislature to urge the federal government to allocate funds for projects to improve the Lake Elsinore Watershed and San Jacinto Watershed, and lake water quality by matching the state's financial commitment to those projects.

79104.110. The funds appropriated pursuant to Section 79104.104 shall be allocated to a joint powers agency consisting of the City of Lake Elsinore, the Santa Ana Watershed Project Authority, the Elsinore Valley Municipal Water District and other agencies for implementation of programs to improve the water quality and habitat of Lake Elsinore, and its back basin consistent with the Lake Elsinore Management Plan.

79104.114. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay costs incurred in connection with the administration of this article.

Article 7. Coastal Watershed Salmon Habitat Program

79104.200. (a) There is hereby created in the account the Coastal Watershed Salmon Habitat Subaccount.

(b) For the purpose of this article, "subaccount" means the Coastal Watershed Salmon Habitat Subaccount created by subdivision (a).

79104.202. The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79104.204. The money in the subaccount, upon appropriation by the Legislature to the Department of Fish and Game, shall be used by the Department of Fish and Game for direct expenditure and for grants to public agencies and nonprofit organizations to protect, restore, acquire, and enhance habitat for salmon. These funds may be used to match federal funding available for those purposes.

79104.206. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

CHAPTER 7. CLEAN WATER AND WATER RECYCLING PROGRAM

Article 1. Clean Water and Water Recycling Account

79105. For the purposes of this chapter, "account" means the Clean Water and Water Recycling Account created by Section 79106.

79106. The Clean Water and Water Recycling Account is hereby created in the fund. The sum of three hundred fifty-five million dollars ($355,000,000) hereby transferred from the fund to the account.

Article 2. Nonpoint Source Pollution Control Program

79110. The purpose of this article is to provide grant funding for projects that protect the beneficial uses of water throughout the state through the control of nonpoint source pollution.

79111. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Best management practices" means those practices or set of practices determined by the board, a regional board, or the water quality planning agency for a designated area to be the most effective feasible means of preventing or reducing the generation of a specific type of nonpoint source pollution, given technological, institutional, environmental, and economic constraints.

(b) "Capital costs" has the same meaning as "cost," as defined in Section 32025 of the Public Resources Code.

(c) "Management measures" means economically achievable measures to prevent or control the addition of pollutants to state waters, which reflect the greatest degree of pollutant prevention achievable through the application of the best available nonpoint source pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(d) "Regional board" means a regional water quality control board.

(e) "Subaccount" means the Nonpoint Source Pollution Control Subaccount created by Section 79112.

79112. There is hereby created in the account the Nonpoint Source Pollution Control Subaccount.

79113. The sum of one hundred million dollars ($100,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79114. (a) The money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board to award grants, not to exceed five million dollars ($5,000,000) per project, to local public agencies or nonprofit organizations formed by landowners to prepare and implement local nonpoint source plans. Grants shall only be awarded for any of the following projects:

(1) A project that is consistent with local watershed management plans that are developed under subdivision (d) of Section 79080 and with regional water quality control plans.

(2) A broad-based nonpoint source project, including a project identified in the board's "Initiatives in NPS Management," dated September 1995, and nonpoint source technical advisory committee reports.

(3) A project that is consistent with the "Integrated Plan for Implementation of the Watershed Management Initiative" prepared by the board and the regional boards.

(4) A project that implements management measures and practices or other needed projects identified by the board pursuant to its nonpoint source pollution control program's 15-year implementation strategy and five-year implementation plan that meets the requirements of Section 6217(g) of the federal Coastal Zone Act Reauthorization Amendments of 1990.

(b) The projects funded from the subaccount shall demonstrate a capability of sustaining water quality benefits for a period of 20 years. Categories of nonpoint source pollution addressed by projects may include, but are not limited to: silviculture, agriculture, urban runoff, mining, hydromodification, grazing, onsite disposal systems, boatyards and marinas, and animal feeding operations. Projects to address nonpoint source pollution may include, but are not limited to, wildfire management, installation of vegetative systems to filter or retard pollutant loading, incentive programs or large scale demonstration programs to reduce commercial reliance on polluting substances or to increase acceptance of alternative methods and materials, and engineered features to minimize impacts of nonpoint source pollution. Projects shall have defined water quality or beneficial use goals.

(c) Projects funded from the subaccount shall utilize best management practices, management measures, or both.

(d) If projects include capital costs, those costs shall be identified by the project applicant. The grant recipient shall provide a matching contribution for the portion of the project consisting of capital expenditures for construction, according to the following formula:

Project Capital Cost/Capital Cost Match by Recipient

$1,000,000 to $5,000,000, inclusive	20%
$125,000 to $999,999, inclusive	15%
$1 to $124,999, inclusive	10%

(e) Not more than 25 percent of a grant may be awarded in advance of actual expenditure.

(f) A proponent of a project funded from the subaccount shall be required to submit to the board a monitoring and reporting plan that does all of the following:

(1) Identifies one or more nonpoint sources of pollution.

(2) Describes the baseline water quality of the waterbody impacted.

(3) Describes the manner in which the proposed practices or measures are implemented.

(4) Determines the effectiveness of the proposed practices or measures in preventing or reducing pollution.

(g) Notwithstanding subdivision (b), the board may award up to 5 percent of the total amount deposited in the subaccount for demonstration projects that are intended to prevent, reduce, or treat nonpoint source pollution.

(h) A grant recipient shall submit a report to the board, upon completion of the project, that summarizes completed activities and indicates whether the purposes of the project have been met. The report shall include information collected by the grant recipient in accordance with the project monitoring and reporting plan, including a determination of the effectiveness of the best management practices or management measures implemented as part of the project in preventing or reducing nonpoint source pollution. The board shall make the report available to watershed groups, and federal, state, and local agencies.

79114.2. Notwithstanding any other provision of this article, the sum of five million dollars ($5,000,000) is hereby appropriated from the subaccount, to the board to be used by the board, after consultation with the Department of Food and Agriculture, for loans, not to exceed five hundred thousand dollars ($500,000) per loan, to provide low interest loans to finance the construction of projects designed to manage animal nutrients from animal feeding operations. Grants may be made available to local public agencies to pay for the cost of developing ordinances, regulations, and elements for their General Plan or other planning devices to assist in providing uniform standards for the permitting and operation of animal feeding operations within their jurisdictions. These funds may also be used for the preparation of the related environmental reviews that may be necessary under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for approval of the devices.

79114.3. No project shall receive funds under this article if it receives funds pursuant to Article 5 (commencing with Section 79148).

79114.5. (a) Sixty percent of the money in the subaccount shall be allocated to projects in the Counties of Riverside, Ventura, Los Angeles, San Diego, Orange, or San Bernardino.

(b) Forty percent of the money in the subaccount shall be allocated to projects in counties not described in subdivision (a).

(c) This section does not apply to Section 79114.2 or Section 79117.

79115. The board may adopt regulations to implement this article.

79116. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

79117. (a) Notwithstanding any other provision of this article, of the funds transferred pursuant to Section 79113, the sum of ten million dollars ($10,000,000), upon appropriation by the Legislature to the board, may be used by the board, after consultation with the Department of Pesticide Regulation and the Office of Environmental Health Hazard Assessment, for grants as follows:

(1) Two million dollars ($2,000,000) for research and source identification.

(2) Eight million dollars ($8,000,000) for mitigation measures to protect water quality from potential adverse effects of pesticides, which measures have the ability to provide benefits for a period of 20 years, as determined by the board after consultation with the Department of Pesticide Regulation and the Office of Environmental Health Hazard Assessment.

(b) The board shall adopt regulations to carry out this section.

Article 3. Clean Water Program

79120. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Eligible project" means a project or activity described in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13480 that is all of the following:

(1) Necessary to prevent water pollution, reclaim water, or improve water quality.

(2) Eligible for funds from the State Revolving Fund Loan Subaccount or federal assistance.

(3) Certified by the board as entitled to priority over other eligible projects.

(4) Complies with applicable water quality standards, policies, and plans.

(b) "Federal assistance" means money provided to a municipality, either directly or through allocation by the state, from the federal government to construct eligible projects pursuant to the Clean Water Act.

(c) "Municipality" has the same meaning as defined in the Clean Water Act and also includes the state or any agency, department, or political subdivision thereof, and applicants eligible for technical assistance under Section 319 (33 U.S.C. Sec. 1329) or grants under Section 320 of the Clean Water Act (33 U.S.C. Sec. 1330).

(d) "Small community" means a municipality with a population of 10,000 persons or less, or a reasonably isolated and divisible

segment of a larger municipality where the segment of the population is 10,000 persons or less, with a financial hardship as determined by the board.

(e) "Treatment works" has the same meaning as defined in the Clean Water Act.

79121. There is hereby created in the account all of the following subaccounts:

(a) The State Revolving Fund Loan Subaccount.

(b) The Small Communities Grant Subaccount.

(c) The Wastewater Construction Grant Subaccount.

79122. (a) The following amounts are hereby transferred from the account to the following subaccounts and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated, without regard to fiscal years, to the board, as follows:

(1) Thirty million five hundred thousand dollars ($30,500,000) to the State Revolving Fund Loan Subaccount for the purposes of providing loans pursuant to the Clean Water Act, to aid in the construction or implementation of eligible projects, and for the purposes described in Section 79124.

(2) Thirty-four million dollars ($34,000,000) to the Small Communities Grant Subaccount for grants by the board to small communities for construction of eligible treatment works, and for the purposes described in Section 79124.

79122.2. The sum of thirty-five million five hundred thousand dollars ($35,500,000) is hereby transferred from the account to the Wastewater Construction Grant Subaccount and, upon appropriation by the Legislature to the board, may be used by the board for the purposes of providing grants to aid in the construction of treatment works for the Cities of Manteca, Stockton, Tracy, and Orange Cove.

79122.4. The board may transfer unallocated funds from the State Revolving Fund Loan Subaccount to the State Water Pollution Control Revolving Fund created pursuant to Section 13477 for the purposes of meeting federal requirements for state matching funds to provide loans in accordance with the Clean Water Act.

79123. The board may adopt regulations to carry out this article.

79124. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary or desirable to carry out this article, and may prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on the collection, treatment, and disposal of waste, and wastewater recycling. For the purposes of this section, "research" may include the design, acquisition, installation, or construction of monitoring and testing equipment and related facilities.

79125. Not more than 3 percent of the total amount deposited in each subaccount created pursuant to this article may be used to pay

the costs incurred in connection with the administration of this article.

79126. Not more than 2 percent of the total amount deposited in each subaccount under this article may be used for the purposes of Section 79124.

79127. For the purposes of implementing paragraph (1) of subdivision (a) of Section 79122, the board may make loans to municipalities, pursuant to contract, to aid in the construction or implementation of eligible projects.

79128. (a) For purposes of paragraph (2) of subdivision (a) of Section 79122, the board may make grants to small communities so that any state grant does not exceed $97^1/_2$ percent of the eligible cost of necessary studies, planning, design, and construction of the eligible project determined in accordance with applicable state law and regulations.

(b) The total amount of grants made pursuant to paragraph (2) of subdivision (a) of Section 79122, for any single project, may not exceed three million five hundred thousand dollars ($3,500,000).

79128.5. For the purposes of paragraph (3) of subdivision (a) of Section 79122, the board may make grants for the cost of planning, design, and construction of treatment works necessary to comply with waste discharge requirements.

79129. Any contract entered into pursuant to this article for a loan or grant may include provisions determined by the board, and shall include all of the following provisions:

(a) An estimate of the reasonable cost of the project.

(b) A description of the type of assistance being offered.

(c) An agreement by the board to pay to the municipality or small community, during the progress of the project or following completion, as agreed upon by the parties, the amount specified in the contract determined pursuant to applicable federal and state laws.

(d) An agreement by the municipality or small community to proceed expeditiously with, and complete, the project, commence operation of the project upon completion, properly operate and maintain the project in accordance with applicable provisions of law, and provide for payment of its share of the costs of the project.

79130. All contracts entered into pursuant to this article for loans or grants are subject to both of the following requirements:

(a) Municipalities seeking assistance shall demonstrate, to the satisfaction of the board, that an adequate opportunity for public participation regarding the project has been provided.

(b) Any election held with respect to the project shall include the voters of the entire municipality unless the municipality proposes to accept the assistance on behalf of a specified portion or portions of the municipality, in which case the election shall be held in that portion or portions of the municipality only.

79131. Any loan made pursuant to Section 79127 shall meet the requirements of paragraph (1) of subdivision (b) of Section 13480.

79132. All principal and interest payments received pursuant to loan contracts entered into pursuant to this article shall be deposited in the State Revolving Fund Loan Subaccount for the purposes of entering into additional loans under this article, and shall not be transferred to the General Fund.

79133. (a) Notwithstanding any other provision of this article, of the continuously appropriated funds described in paragraph (1) of subdivision (a) of Section 79122, the sum of seven million dollars ($7,000,000) shall be used by the Department of Toxic Substances Control for allocation to local agencies for groundwater remediation projects.

(b) The Department of Toxic Substances Control shall adopt regulations to carry out this subdivision.

Article 4. Water Recycling Program

79135. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Municipality" has the same meaning as that set forth in subdivision (c) of Section 79120.

(b) "Subaccount" means the Water Recycling Subaccount created by Section 79136.

(c) "Water recycling project" means a water recycling project that meets applicable reclamation criteria and water reclamation requirements and that complies with applicable water quality standards, policies, and plans.

79136. There is hereby created in the account the Water Recycling Subaccount.

79137. (a) The sum of forty million dollars ($40,000,000) is hereby transferred from the account to the subaccount for the purposes of this article.

(b) (1) Sixty percent of the money in the subaccount shall be allocated to projects in the Counties of Riverside, Ventura, Los Angeles, San Diego, Orange, or San Bernardino.

(2) Forty percent of the money in the subaccount shall be allocated to projects in counties not described in paragraph (1).

79138. Unallocated funds remaining in the Water Recycling Subaccount in the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund on March 8, 2000, and any funds deposited into that subaccount after that date, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under Chapter 17 (commencing with Section 14050) of Division 7 or Article 3 (commencing with Section 78620) of Chapter 5 of Division 24 shall be deposited in, the subaccount for the purposes of this article.

79139. The board may enter into an agreement with the federal government for federal contributions to the subaccount if all of the following conditions have been met:

(a) The board has identified any required matching funds.

(b) The board is prepared to commit to the expenditure of any minimum amount in the subaccount in the manner required by the Clean Water Act.

(c) Any agreement between the board and the federal government is consistent with the purposes of this article.

79140. (a) Notwithstanding Section 13340 of the Government Code, 50 percent of the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board for loans to municipalities for the design and construction of water recycling projects in accordance with Section 79141, and for the purposes described in Sections 79143, 79144, and Section 79145.

(b) Fifty percent of the money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board for grants to municipalities for the design and construction of water recycling projects in accordance with Section 79141.

79141. The board may enter into agreements with municipalities for loans and grants for projects to recycle water in accordance with this article. Criteria to be considered by the board in determining whether to enter into an agreement under this article may include, but are not limited to, whether the project is a cost-effective means to meet the state or local water supply needs, when compared to other sources of water supply that may be available to the municipality, whether the project is necessary to protect water quality, the readiness of the municipality to proceed with the design and construction of water recycling projects, the degree to which the recycled water improves water supply reliability, water quality, ecosystem restoration, and other environmental benefits, the net water savings benefit, the degree to which the recycled water would reduce water supply demands on the bay-delta system, the Colorado River, or other water systems critical to regional or statewide water supply, the ability to encourage development of new water recycling projects, and the amount of funding that the municipality is requesting under this article. The cost effectiveness of a project when compared to other sources of state or local water supply shall not be the sole factor in determining whether to enter into an agreement.

79142. An agreement entered into pursuant to Section 79141 may include those provisions determined by the board to be necessary for the purposes of this article.

79142.2. (a) A contract for a loan made pursuant to this article may not provide for a moratorium on, or the deferment of, the payment of the principal of, or interest on, the loan.

(b) Any loan made pursuant to Section 79141 shall be for a period not to exceed 20 years.

(c) The board may enter into a contract for a loan that equals up to 100 percent of the total eligible cost of design and construction of an eligible recycling project.

79142.4. (a) The board may establish the interest rate for a loan made pursuant to this article at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method.

(b) If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent.

(c) The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

79142.6. All principal and interest payments received pursuant to loan contracts executed pursuant to this article shall be deposited in the subaccount for the purposes of this article, and shall not be transferred to the General Fund.

79142.8. All interest earned by assets in the subaccount shall be deposited in the subaccount.

79143. The board may make grants to municipalities for facility planning studies for water recycling projects. The amount of the grants may not exceed seventy-five thousand dollars ($75,000) per study.

79144. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary or desirable to carry out this article, and may prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on the collection, treatment, and disposal of waste and wastewater recycling. For the purposes of this section, "research" may include the design, acquisition, installation, or construction of monitoring and testing equipment and related facilities.

79145. (a) Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

(b) Not more than 3 percent of the total amount deposited in the subaccount may be used for the purposes of Section 79144.

79146. Notwithstanding any other provision of this article, the money in the subaccount may not be used to provide financial assistance to any water recycling project used to augment water supplies by discharging recycled water into a surface water reservoir that supplies water directly to a treatment facility for a water supply system that serves domestic uses.

79147. (a) The board may adopt regulations to carry out this article.

(b) The board is encouraged to expedite the review and processing of agreements to carry out the purposes of this article. The

board shall report to the Legislature on the progress of implementing this article on or before June 30, 2001.

Article 5. Coastal Nonpoint Source Control Program

79148. The purpose of this article is to provide funding for projects that restore and protect the water quality and environment of coastal waters, estuaries, bays, and near share waters and groundwaters.

79148.2. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Educational institution" means community colleges, state colleges, and the University of California.

(b) "Local public agency" means any city, county, city and county, district, or other political subdivision of the state.

(c) "Municipality" has the same meaning as defined in the Clean Water Act and also includes the state or any agency, department, or political subdivision thereof, and applicants eligible for technical assistance under Section 319 (33 U.S.C. Sec. 1329) or grants under Section 320 of the Clean Water Act (33 U.S.C. Sec. 1330).

(d) "Nonprofit organization" means any California corporation organized under Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code.

(e) "Regional board" means a regional water quality control board.

(f) "Subaccount" means the Coastal Nonpoint Source Control Subaccount created by Section 79148.4.

79148.4. There is hereby created in the account the Coastal Nonpoint Source Control Subaccount.

79148.6. The sum of ninety million dollars ($90,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79148.7. Notwithstanding any other provision of this article, the sum of four million dollars ($4,000,000), upon appropriation by the Legislature to the board, shall be allocated by the board to the City of Huntington Beach to fund multiagency studies to establish recommendations to address coastal nonpoint source pollution in the tidal marshes and coastal waters, and to implement those recommendations. Agencies authorized to conduct the studies and implement the recommendations may include, but need not be limited to, municipal and county governments, flood control districts, and sanitation districts.

79148.8. (a) The money in the subaccount, upon appropriation by the Legislature to the board, may be used by the board, in consultation with the California Coastal Commission, to award loans as provided in subdivision (b), and to award grants not to exceed five million dollars ($5,000,000) per project, to municipalities, local public agencies, educational institutions, or nonprofit organizations for the

purposes of this article. Grants may be awarded for any of the following projects:

(1) A project designed to improve water quality at public beaches and to make improvements for the purpose of ensuring that coastal waters adjacent to public beaches meet the bacteriological standards set forth in Article 2 (commencing with Section 115880) of Chapter 5 of Part 10 of Division 104 of the Health and Safety Code.

(2) A project to provide comprehensive capability for monitoring, collecting, and analyzing ambient water quality, including monitoring technology that can be entered into a statewide information base with standardized protocols and sampling, collection, storage and retrieval procedures.

(3) A project to make improvements to existing sewer collection systems and septic systems for the restoration and protection of coastal water quality.

(4) A project designed to implement storm water and runoff pollution reduction and prevention programs for the restoration and protection of coastal water quality.

(5) A project that is consistent with the state's nonpoint source control program, as revised to meet the requirements of Section 6217 of the federal Coastal Zone Act Reauthorization Amendments of 1990, Section 319 of the federal Clean Water Act (33 U.S.C. Sec. 1329), and the requirements of Division 7 (commencing with Section 13000).

(b) In addition to the grants authorized pursuant to subdivision (a), the board may make loans not to exceed five million dollars ($5,000,000) per project to municipalities, local public agencies, educational institutions, or nonprofit organizations for the purposes set forth in paragraph (3) of subdivision (a).

(c) The projects funded from the subaccount shall demonstrate the capability of contributing to sustained, long-term water quality or environmental restoration or protection benefits for a period of 20 years, shall address the causes of degradation, rather than the symptoms, and shall be consistent with water quality and resource protection plans prepared, implemented, or adopted by the board, the applicable regional water quality control board, and the California Coastal Commission.

(d) An applicant for funds from the subaccount shall be required to submit to the board a monitoring and reporting plan that does all of the following:

(1) Identifies the nonpoint source or sources of pollution to be prevented or reduced by the project.

(2) Describes the baseline water quality or quality of the environment to be addressed.

(3) Describes the manner in which the project will be effective in preventing or reducing pollution and in demonstrating the desired environmental results.

(e) Upon completion of the project, a recipient of funds from the subaccount shall submit a report to the board that summarizes the completed activities and indicates whether the purposes of the project have been met. The report shall include information collected by the recipient in accordance with the project monitoring and reporting plan, including a determination of the effectiveness of the project in preventing or reducing pollution. The board shall make the report available to the public, watershed groups, and federal, state, and local agencies.

(f) If projects include capital costs for construction, those costs shall be identified by the project applicant. The grant recipient shall provide a matching contribution for the portion of the project consisting of capital costs for construction, according to the following formula:

Capital Cost Project Cost/Capital Cost Match by Recipient	
$1,000,000 to $5,000,000, inclusive	20%
$125,000 to $999,999, inclusive	15%
$1 to $124,999, inclusive	10%

For the purposes of this subdivision, "capital costs" has the same meaning as "cost" as defined in Section 32025 of the Public Resources Code.

(g) Not more than 25 percent of a grant may be awarded in advance of actual expenditure.

(h) An applicant for funds from the subaccount shall inform the board of any necessary public agency approvals, entitlements, and permits that may be necessary to implement the project. The application shall certify to the board, at the appropriate time, that those approvals, entitlements, and permits have been granted.

(i) Where recovery plans for coho salmon, steelhead trout, or other threatened or endangered aquatic species exist, projects funded under this article shall be consistent with those plans, and to the extent feasible, shall seek to implement actions specified in those plans.

79148.10. (a) Sixty percent of the money in the subaccount shall be allocated to projects in the Counties of Riverside, Ventura, Los Angeles, San Diego, Orange, or San Bernardino.

(b) Forty percent of the money in the subaccount shall be allocated to projects in the counties not described in subdivision (a).

79148.12. The board shall provide opportunity for public review and comment in awarding funds pursuant to this article, and may, in consultation with the California Coastal Commission, adopt regulations to implement this article.

79148.14. No project shall receive funds under this article if it receives funds pursuant to Article 2 (commencing with Section 79110).

79148.15. Notwithstanding any other provision of this article, three million dollars ($3,000,000), upon appropriation by the Legislature to the board, shall be allocated by the board to the San Diego County Water Authority for environmental studies and engineering studies for the San Diego Regional Conveyance Facility.

79148.16. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 6. Seawater Intrusion Control

79149. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) (1) "Eligible seawater intrusion control project" means a project that meets all of the following requirements:

(A) The project is necessary to protect groundwater and meets both of the following requirements:

(i) The project is within a basin that is subject to a local groundwater management plan for which a review is completed pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(ii) The project is threatened by seawater intrusion in an area where restrictions on groundwater pumping, a physical solution, or both, are necessary to prevent the destruction of, or irreparable injury to, groundwater quality.

(B) In the case of a project that would provide a substitute water supply, the project is cost-effective when compared to the development of other new sources of water and includes requirements or measures adequate to ensure that the substitute supply will be used in lieu of previously established extractions or diversions of groundwater.

(C) The project complies with applicable water quality standards, policies, and plans.

(2) Eligible projects may include, but are not limited to, water conservation, freshwater well injection, and substitution of groundwater pumping from local surface supplies.

(b) "Local agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved in water management.

(c) "Subaccount" means the Seawater Intrusion Control Subaccount created by Section 79149.2.

79149.2. (a) There is hereby created in the account the Seawater Intrusion Control Subaccount. The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board for loans to local agencies

to carry out eligible seawater intrusion control projects and for the purposes described in this article and for the administration of this article.

79149.3. Unallocated funds remaining in the Seawater Intrusion Control Subaccount in the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund on March 8, 2000, and any funds deposited into that subaccount after that date, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under Article 6 (commencing with Section 78648) of Chapter 5 of Division 24 shall be deposited in, the subaccount for the purposes of this article.

79149.4. The board may enter into contracts to make loans to local agencies for the purposes set forth in this article.

79149.6. Any contract for a loan entered into pursuant to Section 79149.4 may include those provisions determined by the board to be necessary for the purposes of this article and shall include both of the following provisions:

(a) An estimate of the reasonable cost of the eligible seawater intrusion control project.

(b) An agreement by the local agency to proceed expeditiously with, and complete, the eligible seawater intrusion control project, commence operation of the project in accordance with applicable provisions of law, and provide for the payment of the local agency's share of the cost of the project, including the principal of, and interest on, the loan.

79149.8. (a) A contract for a loan may not provide for a moratorium on the payment of the principal of, or interest on, the loan.

(b) Any loan made pursuant to Section 79149.4 shall be for a period not to exceed 20 years.

(c) The board may enter into a contract for a loan amount that equals up to 100 percent of the total eligible cost of design and construction of an eligible seawater intrusion control project.

79149.10. (a) The board shall establish the interest rate for a loan made pursuant to this article at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method.

(b) If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent.

(c) The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

79149.12. All principal and interest payments received pursuant to loan contracts entered into pursuant to this article shall be deposited in the subaccount.

79149.14. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out the purposes of this article.

79149.16. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay for both of the following:

(a) To pay the costs incurred in connection with the administration of this article.

(b) For the purposes of Section 79149.14.

CHAPTER 8. WATER CONSERVATION PROGRAM

Article 1. Findings and Declarations

79150. The Legislature finds and declares that:

(a) Voluntary, cost-effective capital outlay water conservation programs can help meet the growing demand for clean and abundant water supplies throughout the state.

(b) The participation of the state in the construction of local water conservation projects is desirable to further the effective management of the water resources of the state.

Article 2. General Provisions

79151. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Account" means the Water Conservation Account created by Section 79152.

(b) (1) "Water conservation program or project" means those feasible capital outlay measures undertaken to improve the efficiency of water use through projects, the benefits of which exceed the costs.

(2) The programs include, but are not limited to, all of the following:

(A) The lining or piping of ditches.

(B) Improvements in water distribution system controls such as automated canal control, construction of small reservoirs within distribution systems that conserve water that has already been captured for use, and related physical improvements.

(C) Tailwater pumpback recovery systems.

(D) Major improvements to, or replacement of, deteriorated distribution systems to reduce leakage and maximize conservation.

(E) Capital outlay features of agricultural water conservation programs identified in the "Memorandum of Understanding Regarding Efficient Agricultural Water Management Practices," dated July 16, 1997, and endorsed by the Agricultural Water Management Council, and any amendments thereto.

(c) "Economically disadvantaged area" means any area of the state for which both of the following statements apply:

(1) A median household income that is less than forty thousand dollars ($40,000) based on the most recent federal census.

(2) An annual average unemployment rate that is greater than 9 percent based on the most recent federal census.

(d) (1) "Groundwater recharge facilities" means lands and facilities for artificial groundwater recharge through methods that include, but are not limited to, percolation using basins, pits, ditches, and furrows, modified streambeds, flooding, and well injection. For the purposes of this chapter, expenditures for "groundwater recharge facilities" include capital outlay expenditures to expand, renovate, or restructure land and facilities used for the purposes of groundwater recharge and to acquire additional land for recharge basins.

(2) Groundwater recharge facilities may include any of the following:

(A) Instream facilities for regulation of water levels, but not regulation of streamflow to accomplish diversion from the waterway.

(B) Agency-owned facilities for extraction.

(C) Conveyance facilities to convey water to the recharge site, including devices for flow regulation and measurement of recharge waters.

(3) Any part or all of the project facilities, including the land under the facilities, may consist of separable features, or an appropriate share of multipurpose features, of a larger system, or both.

(e) "Infrastructure rehabilitation project" means a project located in an economically disadvantaged area for the repair, replacement, restoration, or rehabilitation of an existing water distribution system that delivers water for domestic, municipal, or industrial uses, including pipelines, pump stations, valves, meters, reservoirs, and all other appurtenant water delivery facilities that result in the reduction or elimination of significant distribution system water losses or replace a failing system component that threatens the health, safety, welfare, and economy of areas relying on the water distribution system.

(f) "Local agency" or "agency" means any city, county, city and county, district, joint powers authority, or other political subdivision of the state involved with water management. "Local agency" or "agency" also means a mutual water company. For purposes of this chapter, mutual water company means a nonprofit corporation organized for, or engaged in the business of, developing, distributing, supplying, or delivering water for irrigation or domestic use, or both, to its members or shareholders, at actual cost plus necessary expenses.

(g) "Project" may include any of the following:

(1) Water conservation project.

(2) Groundwater recharge facilities.

(3) Urban water conservation project.

(4) Infrastructure rehabilitation project.

(h) "Urban water conservation project" means capital outlay features of urban water conservation programs identified in the "Memorandum of Understanding Regarding Urban Water Conservation in California," as amended on April 8, 1998, by the California Urban Water Conservation Council, and any amendments thereto.

79152. The Water Conservation Account is hereby created in the fund.

79153. (a) The sum of one hundred fifty-five million dollars ($155,000,000) is hereby transferred from the fund to the account for the purposes of this chapter.

(b) Unallocated funds remaining in the Water Conservation and Groundwater Recharge Subaccount in the Water Supply Reliability Account in the Safe, Clean, Reliable Water Supply Fund on March 8, 2000, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under Article 3 (commencing with Section 78670) of Chapter 6 of Division 24 shall be deposited in, the account for the purposes of entering into additional loans under Article 3 (commencing with Section 79157) and Article 4 (commencing with Section 79161).

79154. (a) Any loan agreement entered into pursuant to this chapter may include provisions determined to be necessary by the department.

(b) Any loan agreement pursuant to this chapter shall include all of the following:

(1) A finding by the department that the agency has the ability to repay the loan, that the project is cost-effective, and that the project is feasible from an engineering or hydrologic standpoint, or both.

(2) An agreement by the agency to proceed expeditiously with, and complete, the project in conformance with approved plans and specifications and to operate and maintain the project properly upon completion throughout the repayment period.

(3) A provision that there shall be no moratorium on, or deferment of, payments of principal or interest.

(4) (A) A loan period of not more than 20 years with an interest rate set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method.

(B) If the interest rate so determined is not a multiple of 1 percent, the interest rate shall be set at the next multiple of one-tenth of 1 percent.

(C) The interest rate for each loan agreement shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

79155. (a) Any grant agreement entered into pursuant to this chapter may include provisions determined to be necessary by the department.

(b) Any grant agreement pursuant to this chapter shall include both of the following:

(1) A determination by the department that the project is economically justified, and that the project is feasible.

(2) An estimate of the reasonable cost and benefit of the project, including a feasibility report that sets forth the engineering and financial feasibility of the project, and shall include a description of the proposed facilities and their relation to other water-related facilities in the system service area.

79155.5. Notwithstanding any other provision of law, regulations set forth in Chapter 2.3 (commencing with Section 450.1) of Division 2 of Title 23 of the California Code of Regulations that are in effect on March 8, 2000, may be used to carry out this chapter.

79156. Not more than 3 percent of the total amount deposited in the subaccount may be used by the department to pay the costs incurred in connection with the administration of this article.

Article 3. Agricultural Water Conservation Program

79157. (a) The sum of thirty-five million dollars ($35,000,000) in the account, upon appropriation by the Legislature to the department, shall be used by the department for loans to local agencies to aid in the acquisition and construction of agricultural water conservation projects, and for grants in accordance with Section 79158.

(b) For the purposes of approving a loan under this section, the department shall determine if there will be a net saving of water as a result of each proposed project and if the project is determined by the department to be cost-effective.

(c) A project under this article shall not receive any more than five million dollars ($5,000,000) in loan proceeds from the department.

(d) The department shall give preference to the agencies that propose the most cost-effective projects.

79158. (a) The department may make grants to local agencies, under any terms and conditions that may be determined necessary by the department, for the purpose of financing feasibility studies of projects potentially eligible for a loan under Section 79157.

(b) No single feasibility study shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 5 percent of the total amount deposited in the account may be expended for the purposes of financing feasibility studies.

(c) A grant for a feasibility study shall not affect the maximum amount of any loan that may be made under this article.

Article 4. Groundwater Recharge Facilities Program

79161. (a) The sum of thirty million dollars ($30,000,000) in the account is hereby appropriated to the department, without regard to fiscal years, for use by the department for loans and grants to local agencies for the acquisition and construction of groundwater recharge facilities.

(b) A loan application pursuant to this article shall include the reasonable cost and benefit of the proposed project, including a feasibility report that shall set forth the economic justification for the project, and shall include explanations of the proposed facilities and their relation to other water supply related facilities in the basin or region.

(c) A project under this article shall not receive any more than five million dollars ($5,000,000) in loan proceeds from the department.

(d) The department shall give preference under this section to projects that are located in overdrafted groundwater basins, projects of critical need, projects whose feasibility studies demonstrate the greatest engineering and hydrogeologic feasibility as determined by the department, and projects located in areas that have groundwater management plans.

79161.5. (a) The department may make grants to local agencies, under any terms and conditions that may be determined necessary by the department, for the purpose of financing feasibility studies of projects potentially eligible for a loan under Section 79161.

(b) No single feasibility study shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 5 percent of the total amount deposited in the account may be expended for the purposes of financing feasibility studies.

(c) A grant for a feasibility study shall not affect the maximum amount of any loan that may be made under this article.

Article 5. Infrastructure Rehabilitation Program

79162. (a) The sum of sixty million dollars ($60,000,000) in the account, upon appropriation by the Legislature to the department, shall be used by the department for grants awarded by the department to local agencies for the purposes of funding infrastructure rehabilitation projects.

(b) (1) For the purposes of making grants pursuant to subdivision (a), the factors to be considered by the department in determining whether to enter into an agreement shall include, but not be limited to, the need to implement projects that provide measurable conservation through the reduction of system water losses by rehabilitating water delivery systems.

(2) Grants awarded pursuant to subdivision (a) shall be available for public water systems owned and operated by local agencies in

economically disadvantaged areas with service connections that exceed 200 but are not greater than 16,000 in number. The department shall give highest priority in awarding grants to those agencies with the highest retail water rates and service charges as of January 1, 1999.

(c) No single construction grant under this article shall exceed five million dollars ($5,000,000).

79162.2. (a) The department may make grants to local agencies, under any terms and conditions as may be determined necessary by the department, for the purpose of financing feasibility studies of projects potentially eligible for a grant under Section 79162.

(b) No single feasibility study shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 5 percent of the total amount deposited in the account may be expended for the purposes of financing feasibility studies.

(c) A grant for a feasibility study shall not affect the maximum of any construction grant that may be made under this article.

79162.4. The department may adopt regulations to carry out this article.

Article 6. Urban Water Conservation Program

79163. (a) The sum of thirty million dollars ($30,000,000) in the account, upon appropriation by the Legislature to the department, shall be used by the department for grants and loans awarded by the department to local agencies for the purposes of funding urban water conservation projects.

(b) A project under this article shall not receive more than five million dollars ($5,000,000) in loan proceeds from the department.

79164. (a) The department may make grants to local agencies, under any terms and conditions that may be determined necessary by the department, for the purpose of financing feasibility studies of projects potentially eligible for a loan under Section 79163.

(b) No single feasibility study shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 5 percent of the total amount deposited in the account may be expended for the purposes of financing feasibility studies.

(c) A grant for a feasibility study shall not affect the maximum amount of any loan that may be made under this article.

CHAPTER 9. WATER SUPPLY, RELIABILITY, AND INFRASTRUCTURE PROGRAM

Article 1. Water Supply, Reliability, and Infrastructure Account

79165. For the purposes of this chapter, "account" means the Water Supply, Reliability, and Infrastructure Account created by Section 79166.

79166. The Water Supply, Reliability, and Infrastructure Account is hereby created in the fund. The sum of six hundred thirty million dollars ($630,000,000) is hereby transferred from the fund to the account.

Article 2. Groundwater Storage Program

79170. The Legislature finds and declares that the conjunctive management of surface water and groundwater is an effective way to improve the reliability of water supply for all sectors in California.

79171. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Conjunctive use" means the temporary storage of water in a groundwater aquifer through intentional recharge and subsequent extraction for later use. Storage is accomplished by either of the following methods:

(1) "Direct recharge" of an aquifer by conducting surface water into the ground by various means, including, without limitation, spreading ponds and injection wells for the purpose of making the water stored in the aquifer available for extraction and later use in drier years.

(2) "In-lieu recharge" means increasing the amount of groundwater available in an aquifer by substituting surface water supplies to a user who would otherwise pump groundwater.

(b) "Conjunctive use facilities" include land and appurtenant facilities for any phase of a conjunctive use operation. Appurtenant facilities may include subsurface storage, treatment, conveyance, recharge ponds, injection wells, spreading grounds, monitoring, measurements, subsidence detection, flow regulation, detention basins to facilitate recharge, diversion facilities, and extraction facilities.

(c) "Conjunctive use project" means a project that is intended to produce water supply benefits for the local agency or a project that is intended to produce water supply benefits for water users, including the environment, in addition to the local agency.

(d) "Local agency" means any city, county, city and county, district, joint powers authority, mutual water company, or other political subdivision of the state.

(e) "Project participants" means any public agency participating in, and benefiting from, a conjunction use project under this article.

(f) "Subaccount" means the Conjunctive Use Subaccount created by Section 79172.

79172. There is hereby created in the account the Conjunctive Use Subaccount.

79173. The sum of two hundred million dollars ($200,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

79174. The money in the subaccount, upon appropriation by the Legislature to the department, may be used by the department for grants for feasibility studies, project design, or the construction of conjunctive use projects on a pilot or operational scale.

79175. Not more than 5 percent of the total amount deposited in the subaccount may be expended for purposes of financing feasibility studies.

79176. For the purpose of approving projects pursuant to this article, the department shall give priority to those projects for which there is available third-party funds from any source other than the Central Valley Project Restoration Fund authorized by the Central Valley Project Improvement Act. The department shall also take into consideration all of the following with regard to each proposed project:

(a) The magnitude of the actual increase in water supply yield and reliability compared to preexisting conditions.

(b) The consistency with the plans or recommendations proposed by CALFED.

(c) The distribution of the benefits to water supply and to the environment.

(d) The availability of the storage for conserved water.

(e) The technical and environmental suitability of the groundwater basin for conjunctive use.

(f) The potential to reduce critically overdrafted conditions in a groundwater basin.

(g) The need for the project.

(h) The potential to alleviate salt water intrusion into groundwater basins or other groundwater quality degradation.

(i) The economic, engineering, and hydrogeologic justification for the project.

(j) The availability of third-party or local matching funds from any source other than the Central Valley Project Restoration Fund authorized by the Central Valley Project Improvement Act.

(k) The involvement of one or more local agencies whose jurisdiction or water service area overlies or is adjacent to the aquifer utilized to store water.

(*l*) The potential to reduce dry year demand for surface water under existing contracts.

(m) The existence of a system for the recovery of the stored water or an agreement with the department or a local agency for the installation of that system.

(n) Whether the project is located in an area that is subject to a groundwater management program.

79177. To be eligible for funding for the construction of a conjunctive use project under this article, an applicant that is other than a local agency shall be required to carry out that project with the participation of a local agency. The department or a local agency may provide technical assistance, coordination, or any other

assistance in implementing a project or study if requested by the participating local agency.

79178. No construction project may receive more than fifty million dollars ($50,000,000) from the subaccount.

79179. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

79180. Not less than 40 percent of the total amount deposited in the subaccount shall be expended for studies, projects, and facilities within watersheds of the central valley.

79181. (a) A project undertaken pursuant to this article shall fully protect and preserve the groundwater rights of the overlying landowners and shall fully protect and preserve the water rights of the project participants. The department shall not provide funding for a project unless it determines that the project will be designed and operated in a manner that ensures that other users of the same or a hydrologically related aquifer will not suffer any unreasonable diminution of the quantity or quality of their groundwater supplies or incur additional uncompensated expense as a result of the implementation of the project.

(b) For the purposes of receiving funding for a conjunctive use project pursuant to this article, the applicant shall be required to do both of the following:

(1) Provide for a continuing groundwater monitoring and mitigation program.

(2) Limit the extraction of the groundwater to not more than the amount of water that is stored or recharged by the project participants or the amount that complies with all laws and contract terms governing the extraction, appropriation, and use of groundwater by the project participants.

(c) Persons and agencies participating in the project may not assert a claim or file a cause of action against an overlying landowner who is not exceeding either of the following:

(1) The overlying landowner's historic rate of groundwater pumping.

(2) The full amount of groundwater to which the overlying landowner would be entitled to under state law regarding rights to groundwater and reasonable beneficial use on the landowner's land that overlies the groundwater.

(d) The overlying landowners may not assert a claim or file a cause of action against the persons or agencies participating in the project if the project is implemented in compliance with this section, except as provided by contract between the project participants.

(e) Nothing in this article modifies state law with regard to groundwater rights, regulation, or management.

79182. In carrying out this article and awarding grants, the department shall convene and consult with an advisory committee comprised of technically qualified representatives of local water

agencies, project participants, environmental interests, agricultural laborer interests, and interests representing farmers who use groundwater. The advisory committee shall be geographically balanced to reflect the communities that use water in the Central Valley. If a member of the advisory committee, or a member of his or her immediate family, is employed by a grant applicant or the employer of a grant applicant, the committee members shall make that disclosure to the other members of the committee and shall not participate in the review of the grant application of that applicant.

79183. The department may adopt regulations to carry out this article.

Article 3. Bay-Delta Multipurpose Water Management Program

79190. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "CALFED Bay-Delta Program" or "program" means the undertaking by CALFED pursuant to the Framework Agreement dated June 20, 1994, to develop a long-term solution to water management, environmental, and other problems in the bay-delta watershed by means of a programmatic environmental impact statement/environmental impact report.

(b) "CALFED EIS/EIR" means the final programmatic environmental impact statement/environmental impact report prepared by CALFED.

(c) "CALFED stage 1 action" means an action identified in the preferred alternative of the CALFED EIS/EIR as an action intended for implementation during stage 1 of Phase III of the CALFED Bay-Delta Program.

(d) (1) "Eligible project" means a demonstration project, subject to the CALFED adaptive management principle that requires an assessment of the performance of the demonstration projects in order to determine which projects are successful in achieving the goals of the program.

(2) "Eligible project" means a project that meets both of the following requirements.

(A) The project is identified in the CALFED EIS/EIR as a CALFED stage 1 action.

(B) The project does one or more of the following:

(i) Constructs treatment facilities or relocates discharge facilities for agricultural drainage generated within the delta to improve water quality in the delta or the quality of water that is transported from the delta.

(ii) Constructs facilities to control waste discharges that contribute to low dissolved oxygen and other water quality problems in the lower San Joaquin River and the south delta.

(iii) Constructs fish facilities for the State Water Project or the Central Valley Project intakes in the south delta, such as facilities for

fish screens, fish handling, and fish passage, or modifications to intake structures or other facilities, to reduce losses of any life stages of fish to water diversions in the San Joaquin River and the delta in accordance with paragraph (1) of Section (C) of Chapter IV of the board's 1995 water quality control plan.

(iv) Constructs a permanent barrier at the head of Old River to improve fish migration and other permanent barriers in the south delta channels to improve water quality and water level for local diversions.

(v) Constructs facilities to control drainage from abandoned mines that adversely affect water quality in the bay-delta.

(vi) Constructs a permanent barrier at Grantline Canal to improve water quality and water levels for local diversion.

(e) "Subaccount" means the Bay-Delta Multipurpose Water Management Subaccount created by Section 79194.

79191. This article does not affect the authority of any agency pursuant to any other provision of law to expend funds for the purposes described in this article.

79192. The Legislature hereby finds and declares all of the following:

(a) CALFED is in the process of preparing a programmatic EIS/EIR for a long-term comprehensive plan that will resolve problems related to ecosystem restoration, including the recovery of endangered species such as chinook salmon, water quality, water supply, water management, and system integrity for the protection of beneficial uses of the bay-delta ecosystem.

(b) The CALFED Bay-Delta Program is of statewide and national importance. The state should participate in the funding of eligible projects as a part of its ongoing program to improve conditions in the bay-delta ecosystem.

(c) The programmatic EIS/EIR will include a schedule for funding and implementing all elements of the long-term comprehensive plan.

(d) The elements of the CALFED Bay-Delta Program will achieve balanced solutions in all identified problem areas, including the ecosystem, water quality, water supply, and system integrity.

79193. (a) This article does not authorize the implementation of the CALFED Bay-Delta Program or any element of that program. The implementation of the CALFED Bay-Delta Program, or any element of that program, shall only be undertaken pursuant to authority provided by law other than this division.

(b) Nothing in this article affects the obligation to comply with provisions of existing law in connection with the implementation of this article.

79194. There is hereby created in the account the Bay-Delta Multipurpose Water Management Subaccount.

79195. The sum of two hundred fifty million dollars ($250,000,000) is hereby transferred from the account to the subaccount.

79196. (a) The money in the subaccount, upon appropriation by the Legislature to the department, may be used by the department to carry out eligible projects and for the purposes of Section 79202.

(b) Money in the subaccount that is allocated to carry out eligible projects, as described in clauses (ii), (iv), and (vi) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190, and is not expended for those purposes, may be reallocated by the department to carry out other eligible projects, as described in clauses (i), (iii), and (v) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(c) No funds in the subaccount shall be used by the department unless and until the department has consulted, on an annual basis, with the state and federal agencies that participate in CALFED, as well as representatives of the public convened as a duly authorized advisory committee, with regard to the specific projects proposed for funding under this article. Decisions regarding specific expenditures of funds provided under this article shall be jointly determined, to the maximum extent possible, by the recommendations of the state and federal CALFED agencies with the advice of the advisory committee.

79196.5. The funds appropriated pursuant to Section 79196 shall be allocated as following:

(a) Seventeen million dollars ($17,000,000) for the purposes of the project described in clause (i) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(b) Forty million dollars ($40,000,000) for the purposes of the project described in clause (ii) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(c) One hundred twenty million dollars ($120,000,000) for the purposes of the project described in clause (iii) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(d) Forty million dollars ($40,000,000) for the purposes of the project described in clause (iv) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(e) Seventeen million dollars ($17,000,000) for the purposes of the project to described in clause (v) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

(f) Sixteen million dollars ($16,000,000) for the purposes of the project described in clause (vi) of subparagraph (B) of paragraph (2) of subdivision (d) of Section 79190.

79197. No funds in the subaccount may be expended until all of the following conditions have been met:

(a) The CALFED EIS/EIR has been certified by the state lead agency and a notice of determination has been issued as required by

Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) The CALFED EIS/EIR has been filed by the federal lead agencies with the United States Environmental Protection Agency, the required notice has been published in the Federal Register, and there has been federal approval of a program identical to the program approved by the state.

79198. The state, to the greatest extent possible, shall secure federal and nonfederal funds to implement this article.

79199. Due to the importance of issuing permits and otherwise expediting all elements of the CALFED Bay-Delta Program in a timely and balanced manner, the following procedures shall apply to the use of funds authorized by this article:

(a) After the requirements set forth in Section 79197 are met, funds in the subaccount shall become available for use in accordance with the schedule for eligible projects set forth in the final programmatic EIS/EIR, unless the Secretary of the Resources Agency determines that the schedule established in the final programmatic EIS/EIR has not been substantially adhered to.

(b) On or before November 15 of each year, the Secretary of the Resources Agency, in consultation with state and federal CALFED representatives and other interested persons and agencies, shall review adherence to the schedule.

(c) The absence of funding from nonfederal or nonstate sources shall not be a basis for a determination that the schedule has not been adhered to.

(d) If, at the conclusion of each annual review, the Secretary of the Resources Agency determines that the schedule established in the final programmatic EIS/EIR, or a revised schedule prepared pursuant to this subdivision, has not been substantially adhered to, the secretary, after notice to, and consultation with, state and federal CALFED representatives and other interested persons and agencies, shall prepare a revised schedule that ensures that balanced solutions in all identified problem areas, including ecosystem restoration, water supply, water quality, and system integrity are achieved, consistent with the intent of the final programmatic EIS/EIR. Funds shall be available for expenditure unless a revised schedule has not been developed within six months from the date on which the secretary determines that the prior schedule has not been substantially adhered to. Upon the preparation of any revised schedule under this subdivision, funds shall be expended in accordance with that revised schedule.

(e) Funds in the subaccount shall become available in accordance with the cost-share agreement developed by the CALFED Bay-Delta Program, which shall describe the federal, state, and local share of funding for the programs, projects, and other CALFED stage 1 actions.

79200. On or before December 15 of each year, the Secretary of the Resources Agency shall submit an annual report to the Legislature that describes the status of the implementation of all elements of the CALFED Bay-Delta Program, any determinations made by the secretary pursuant to subdivisions (b) and (d) of Section 79199 and other significant scheduling issues. The report also shall include a detailed accounting of expenditures, descriptions of programs for which expenditures have been made, and a schedule of anticipated expenditures for the next year.

79201. The report prepared pursuant to Section 79200 shall include both of the following:

(a) A summary of the results achieved by the projects funded under this article.

(b) An identification of any necessary modifications that should be made to eligible projects or other CALFED bay-delta projects, to ensure that the goals and objectives of CALFED are met.

79201.5. Nothing in this article shall be construed to address the allocation of benefits from projects or programs funded by this article. It is anticipated that this issue will be settled in the CALFED process or by the Legislature by statute.

79202. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

79203. The department may adopt regulations to carry out this article.

Article 4. Interim Water Reliable Supply and Water Quality Infrastructure and Management Program

79205.2. (a) "Delta export service area," as used in this article, means both of the following:

(1) The counties included within the Association of Bay Area Governments.

(2) Those areas of the state outside the delta that receive water from the State Water Project or the Central Valley Project, either directly or by exchange, by means of diversions from the delta.

(b) "Local agency," as used in this article, means any city, county, city and county, district, or other political subdivision of the state.

79205.4. (a) There is hereby created the Interim Water Supply and Water Quality Infrastructure and Management Subaccount.

(b) For the purposes of this article, "subaccount" means the Interim Reliable Water Supply and Water Quality Infrastructure and Management Subaccount.

79205.6. The sum of one hundred eighty million dollars ($180,000,000) is hereby transferred from the account to the subaccount for the purposes of this article.

79205.8. (a) The money in the subaccount, upon appropriation by the Legislature to the department, may be used by the

department to provide grants or loans, or any combination thereof, which are approved by the Governor, to local agencies located in the delta export service areas for programs or projects that can be completed and provide the intended benefits not later than March 8, 2009, and are designed to increase water supplies, enhance water supply reliability, or improve water quality.

(b) The department shall provide grants for programs or projects located outside the delta and which meet one of the following requirements:

(1) The project or program constructs new or expands existing groundwater storage and recovery projects or acquires rights to use storage in existing reservoirs.

(2) The project or program implements measures that facilitate improved water treatment, water transfers, or exchanges, including, but not limited to, a project that improves water quality by shifting reliance from lower quality to higher quality water supplies.

(3) The project or program implements state of the art agricultural water conservation programs, and programs that treat or manage agricultural drainage water for reuse or instream water quality benefits.

(c) The department shall list the projects that are proposed to be funded from the subaccount.

79205.10. For purposes of prioritizing eligible programs or projects for funding under this article, the department shall give priority to programs or projects that meet one or more of the following requirements:

(a) Can be completed expeditiously and thereby provide near term benefits and more immediate mitigation of urgent problems related to water supply and water quality.

(b) Implements actions to improve water quality and protect water level conditions in San Luis Reservoir.

(c) Includes public-private partnerships or cost sharing arrangements that maximize public benefits.

(d) Sponsored by a public agency with water supplies that are being or would be impacted to a greater degree by delta-related water supply shortages and water quality degradation.

79205.12. The state, to the greatest extent possible, shall seek matching federal funds to implement this article.

79205.14. Funds available from the subaccount shall be available for all phases of project development including, but not limited to, project administration, permitting and environmental compliance, feasibility studies, and construction.

79205.16. Not more than 5 percent of the total amount deposited in the subaccount may be used to pay costs incurred in connection with the administration of this article.

CHAPTER 10. FISCAL PROVISIONS

79210. Bonds in the total amount of one billion nine hundred seventy million dollars ($1,970,000,000), not including the amount of any refunding bonds issued in accordance with Section 79219, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

79211. (a) The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except Section 16727, and all of the provisions of that law apply to the bonds and to this division and are hereby incorporated in this division as though set forth in full in this division.

(b) For purposes of the State General Obligation Bond Law, each state agency that administers an appropriation of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund is designated the "board."

79212. Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Finance Committee is hereby created. For purposes of this division, the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, and the Director of Finance, or their designated representatives. A majority of the committee may act for the committee.

79213. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

79214. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the

collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

79215. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 79216, appropriated without regard to fiscal years.

79216. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this division. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this division.

79217. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

79218. The agency that administers an appropriation of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this division. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this division. The requesting agency shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the requesting agency in accordance with this division.

79219. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this division includes the approval of the issuance of any other bonds issued to refund any bonds originally issued under this division or any previously issued refunding bonds.

79220. Notwithstanding any provision of this division or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this division that include a bond counsel opinion to the effect that

the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of that state.

79221. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 1.5. Section 1812.6 is added to the Water Code, to read:

1812.6. (a) On or before October 15, 1999, the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California shall sign and adopt a quantification agreement regarding their respective Colorado River entitlements. The quantification agreement shall secure the approval of the Metropolitan Water District of Southern California and the Coachella Valley Water District for a transfer for the benefit of the San Diego County Water Authority of up to 200,000 acre-feet of water under the exchange agreement between the San Diego County Water District and the Metropolitan Water District of Southern California dated November 10, 1998. The quantification agreement shall be consistent with federal and state law.

(b) If by October 15, 1999, the quantification agreement described in subdivision (a) is not signed by all three districts listed in subdivision (a), the Governor or his sole designee shall promulgate a quantification settlement by January 1, 2000, and impose that settlement on the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California. The quantification settlement shall meet the requirement of subdivision (a). The Governor, or his designee shall insure that any quantification agreement or settlement, whether imposed by the Governor pursuant to this subdivision or agreed to among the Imperial Irrigation District, the Coachella Valley Water District, the Metropolitan Water District of Southern California and any other parties, shall not limit the right or obligation of the State of California, or the right of any person, to enforce the provisions of the California Constitution and conforming state statutes and regulations.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Section 13480 of the Water Code is amended to read:

13480. (a) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:

(1) The construction of publicly owned treatment works, as defined by Section 212 of the federal act (33 U.S.C.A. Sec. 1292), by any municipality.

(2) Implementation of a management program pursuant to Section 319 of the federal act (33 U.S.C.A. Sec. 1329).

(3) Development and implementation of a conservation and management plan under Section 320 of the federal act (33 U.S.C.A. Sec. 1330).

(4) Financial assistance, other than a loan, toward the nonfederal share of costs of any grant-funded treatment works project, but only if that assistance is necessary to permit the project to proceed.

(b) Consistent with expenditure for authorized purposes, moneys in the fund may be used for the following purposes:

(1) Loans that meet all of the following requirements:

(A) Are made at or below market interest rates.

(B) Require annual payments of principal and any interest, with repayment commencing not later than one year after completion of the project for which the loan is made and full amortization not later than 20 years after project completion.

(C) Require the loan recipient to establish an acceptable dedicated source of revenue for repayment of any loan.

(D) (i) Contain other terms and conditions required by the board or the federal act or applicable rules, regulations, guidelines, and policies. To the extent permitted by federal law, the interest rate shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds and the interest rate shall be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the multiple of one-tenth of 1 percent next above the interest rate so determined. Any loan from the fund used to finance costs of facilities planning, or the preparation of plans, specifications, or estimates for construction of publicly owned treatment works shall comply with Section 603(e) of the federal act (33 U.S.C.A. Sec. 1383(e)).

(ii) Notwithstanding clause (i), if the loan applicant is a municipality, an applicant for a loan for the implementation of a management program pursuant to Section 319 of the Clean Water Act (33 U.S.C. Sec. 1329), or an applicant for a loan for nonpoint source or estuary enhancement pursuant to Section 320 of the Clean Water Act (33 U.S.C. Sec. 1330), and the applicant provides matching funds, the interest rate on the loan shall be 0 percent. A loan recipient that returns to the fund an amount of money equal to 20 percent of the remaining unpaid federal balance of an existing loan shall have the remaining unpaid loan balance refinanced at a rate of 0 percent over the time remaining in the original loan contract.

(2) To buy or refinance the debt obligations of municipalities within the state at or below market rates if those debt obligations were incurred after March 7, 1985.

(3) To guarantee, or purchase insurance for, local obligations where that action would improve credit market access or reduce interest rates.

(4) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of the sale of those bonds will be deposited in the fund.

(5) To establish loan guarantees for similar revolving funds established by municipalities.

(6) To earn interest.

(7) For payment of the reasonable costs of administering the fund and conducting activities under Subchapter VI (commencing with Section 601) of the federal act (33 U.S.C.A. Sec. 1381 et seq.). Those costs shall not exceed 4 percent of all federal contributions to the fund, except that if permitted by federal and state law, interest repayments into the fund and other moneys in the fund may be used to defray additional administrative and activity costs to the extent permitted by the federal government and approved by the Legislature in the Budget Act.

(8) For financial assistance toward the nonfederal share of the costs of grant-funded treatment works projects to the extent permitted by the federal act.

SEC. 3. Section 14058 of the Water Code is amended to read:

14058. (a) The sum of thirty million dollars ($30,000,000) of the money in the fund shall be deposited in the Water Reclamation Account and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the board for the purposes of this section.

(b) The board may enter into contracts with local public agencies having authority to construct, operate, and maintain water reclamation projects, for loans to aid in the design and construction of eligible water reclamation projects. The board may loan up to 100 percent of the total eligible cost of design and construction of an eligible reclamation project.

(c) Any contract for an eligible water reclamation project entered into pursuant to this section may include such provisions as determined by the board and shall include both of the following provisions:

(1) An estimate of the reasonable cost of the eligible water reclamation project.

(2) An agreement by the local public agency to proceed expeditiously with, and complete, the eligible water reclamation project; commence operation of the project in accordance with applicable provisions of law, and provide for the payment of the local

public agency's share of the cost of the project, including principal and interest on any state loan made pursuant to this section.

(d) Loan contracts may not provide for a moratorium on payments of principal or interest.

(e) Any loans made from the fund may be for a period of up to 20 years. The interest rate for the loans shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, with that rate to be computed according to the true interest cost method. When the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent.

(f) All money repaid to the state pursuant to any contract executed under this chapter shall be deposited in the Water Recycling Subaccount in the Clean Water and Water Recycling Account in the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund created by Section 79136, for the purposes set forth in Article 4 (commencing with Section 79135) of Chapter 7 of Division 26.

SEC. 4. Section 78621 of the Water Code is amended to read:

78621. (a) (1) There is hereby created in the account the Water Recycling Subaccount. The sum of sixty million dollars ($60,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

(2) All money repaid to the state pursuant to any contract executed under the Clean Water and Water Reclamation Bond Law of 1988 (Chapter 17 (commencing with Section 14050) of Division 7) shall be deposited in the Water Recycling Subaccount in the Clean Water and Water Recycling Account in the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund created by Section 79136, for the purposes set forth in Article 4 (commencing with Section 79135) of Chapter 7 of Division 26.

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board for loans to public agencies to construct, operate, and maintain eligible recycling projects, for loans to aid in the design and construction of eligible recycling projects, for grants in accordance with Section 78628, and for the purposes described in Section 78629 and subdivision (a) of Section 78630.

SEC. 5. Section 78626 of the Water Code is repealed.

SEC. 6. Section 78626 is added to the Water Code, to read:

78626. Unallocated funds remaining in the subaccount on March 8, 2000, and any funds deposited into the subaccount after that date, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under this article shall be deposited in, the Water Recycling Subaccount in the Clean Water and Water Recycling Account in the Safe Drinking Water, Clean Water,

Watershed Protection, and Flood Protection Bond Fund for the purposes set forth in Section 79140.

SEC. 7. Section 78648.12 of the Water Code is repealed.

SEC. 8. Section 78648.12 is added to the Water Code, to read:

78648.12. Unallocated funds remaining in the subaccount on March 8, 2000 and any funds deposited into the subaccount after that date, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under this article shall be deposited in, the Seawater Intrusion Control Subaccount in the Clean Water and Water Recycling Account in the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund for the purposes set forth in Article 6 (commencing with Section 79149) of Chapter 7 of Division 26.

SEC. 9. Section 78675 of the Water Code is repealed.

SEC. 10. Section 78675 is added to the Water Code, to read:

78675. Unallocated funds remaining in the subaccount on March 8, 2000, shall be transferred to, and all money repaid to the state pursuant to any loan contract executed under this article shall be deposited in, the Water Conservation Account in the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund for the purposes of entering into additional loans under Article 3 (commencing with Section 79157) and Article 4 (commencing with Section 79161) of Chapter 8 of Division 26.

SEC. 11. Sections 1, 3, 4, 5, 6, 7, 8, 9, and 10 of this act shall become effective upon the approval by the voters of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act, as set forth in Section 1 of this act.

SEC. 12. Sections 1, 3, 4, 5, 6, 7, 8, 9, and 10 of this act shall be submitted to the voters at the March 7, 2000, statewide direct primary election in accordance with provisions of the Government Code and the Elections Code governing the submission of statewide measures to the voters.

SEC. 13. (a) Notwithstanding any other provision of law, all ballots at the election shall have printed thereon and in a square thereof, the words: "Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Act" and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of one billion nine hundred seventy million dollars ($1,970,000,000) to provide funds for a safe drinking water, water quality, flood protection, and water reliability program." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may

include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Where voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to remedy critical drinking water, water quality, flood protection, and water supply problems, thereby protecting public health and safety, it is necessary that this act take effect immediately.

CHAPTER 726

An act to add Chapter 12 (commencing with Section 19985) to Part 11 of the Education Code, relating to financing a public library construction and renovation program, making an appropriation therefor, and by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Chapter 12 (commencing with Section 19985) is added to Part 11 of the Education Code, to read:

CHAPTER 12. CALIFORNIA READING AND LITERACY IMPROVEMENT AND PUBLIC LIBRARY CONSTRUCTION AND RENOVATION BOND ACT OF 2000

Article 1. General Provisions

19985. This chapter shall be known and may be cited as the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000.

19985.5. The Legislature finds and declares the following:

(a) Reading and literacy skills are fundamental to success in our economy and our society.

(b) The Legislature and Governor have made enormous strides in improving the quality of reading instruction in public schools.

(c) Public libraries are an important resource to further California's reading and literacy goals both in conjunction with the public schools and for the adult population.

(d) The construction and renovation of public library facilities is necessary to expand access to reading and literacy programs in California's public education system and to expand access to public library services for all residents of California.

19986. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the California Library Construction and Renovation Finance Committee established pursuant to Section 19972.

(b) "Fund" means the California Public Library Construction and Renovation Fund.

(c) "Board" means the California Public Library Construction and Renovation Board. This board is comprised of the State Librarian, the Treasurer, the Director of Finance, an Assembly Member appointed by the Speaker of the Assembly, a Senator appointed by the Senate Rules Committee, and a member appointed by the Governor.

Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the purposes of this chapter, Members of the Legislature who are members of the board shall constitute a joint legislative committee on the subject matter of this chapter.

Article 2. Program Provisions

19987. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the California Public Library Construction and Renovation Fund, which is hereby established.

19988. All moneys deposited in the fund, except as provided in Section 20011, are continuously appropriated to the State Librarian, notwithstanding Section 13340 of the Government Code, and shall be available for grants to any city, county, city and county, or district that is authorized at the time of the project application to own and maintain a public library facility for the purposes set forth in Section 19989.

19989. The grant funds authorized pursuant to Section 19988, and the matching funds provided pursuant to Section 19995, shall be used by the recipient for any of the following purposes:

(a) Acquisition or construction of new facilities or additions to existing public library facilities.

(b) Acquisition of land necessary for the purposes of subdivision (a).

(c) Remodeling or rehabilitation of existing public library facilities or of other facilities for the purpose of their conversion to public library facilities. All remodeling and rehabilitation projects funded with grants authorized pursuant to this chapter shall include any necessary upgrading of electrical and telecommunications systems to accommodate Internet and similar computer technology.

(d) Procurement or installation, or both, of furnishings and equipment required to make a facility fully operable, if the procurement or installation is part of a construction or remodeling project funded pursuant to this section.

(e) Payment of fees charged by architects, engineers, and other professionals, whose services are required to plan or execute a project authorized pursuant to this chapter.

19990. Any grant funds authorized pursuant to Section 19988, or matching funds provided pursuant to Section 19995, may not be used by a recipient for any of the following purposes:

(a) Books and other library materials.

(b) Administrative costs of the project, including, but not limited to, the costs of any of the following:

(1) Preparation of the grant application.

(2) Procurement of matching funds.

(3) Conduct of an election for obtaining voter approval of the project.

(c) Interest or other carrying charges for financing the project, including, but not limited to, costs of loans or lease-purchase agreements in excess of the direct costs of any of the authorized purposes specified in Section 19989.

(d) Any ongoing operating expenses for the facility, its personnel, supplies, or any other library operations.

19991. All construction contracts for projects funded in part through grants awarded pursuant to this chapter shall be awarded through competitive bidding pursuant to Part 3 (commencing with Section 20100) of Division 2 of the Public Contract Code.

19992. This chapter shall be administered by the State Librarian. The board shall adopt rules, regulations, and policies for the implementation of this chapter.

19993. A city, county, city and county, or district may apply to the State Librarian for a grant pursuant to this chapter, as follows:

(a) Each application shall be for a project for a purpose authorized by Section 19989.

(b) An application may not be submitted for a project for which construction bids already have been advertised.

(c) The applicant shall request not less than fifty thousand dollars ($50,000) per project.

19994. (a) The State Librarian shall consider applications for construction of new public library facilities submitted pursuant to Section 19993 in the following priority order:

(1) First priority shall be given to joint use projects in which the agency that operates the library and one or more school districts have a cooperative agreement.

(2) Second priority shall be given to all other public library projects.

(b) The State Librarian shall consider applications for remodeling or rehabilitation of existing public library facilities pursuant to Section 19993 in the following priority order:

(1) First priority shall be given to public library projects in the attendance areas of public schools that are determined, pursuant to regulations adopted by the board, to have inadequate infrastructure to support access to computers and other educational technology.

(2) Second priority shall be given to all other projects.

19995. (a) Each grant recipient shall provide matching funds from any available source in an amount equal to 35 percent of the costs of the project. The remaining 65 percent of the costs of the project, up to a maximum of twenty million dollars ($20,000,000) per project, shall be provided through allocations from the fund.

(b) Qualifying matching funds shall be cash expenditures in the categories specified in Section 19989 which are made not earlier than three years prior to the submission of the application to the State Librarian. Except as otherwise provided in subdivision (c), in-kind expenditures do not qualify as matching funds.

(c) Land donated or otherwise acquired for use as a site for the facility, including, but not limited to, land purchased more than three years prior to the submission of the application to the State Librarian, may be credited towards the 35 percent matching funds requirement at its appraised value as of the date of the application. This subdivision shall not apply to land acquired with funds authorized pursuant to Part 68 (commencing with Section 100400).

(d) Architect fees for plans and drawings for library renovation and new construction, including, but not limited to, plans and drawings purchased more than three years prior to the submission of the application to the State Librarian, may be credited towards the 35 percent matching funds requirement.

19996. (a) The estimated costs of a project for which an application is submitted shall be consistent with normal public construction costs in the applicant's area.

(b) An applicant wishing to construct a project having costs that exceed normal public construction costs in the area may apply for a grant in an amount not to exceed 65 percent of the normal costs up to a maximum of twenty million dollars ($20,000,000) per project if the applicant certifies that it is capable of financing the remainder of the project costs from other sources.

19997. Once an application has been approved by the board and included in the State Librarian's request to the committee, the amount of the funding to be provided to the applicant may not be increased. Any actual changes in project costs are the full

responsibility of the applicant. If the amount of funding that is provided is greater than the cost of the project, the applicant shall return that portion of the funding that exceeds the cost of the project to the fund. If an applicant has been awarded funding by the board, but chooses not to proceed with the project, the applicant shall return all of the funding to the fund.

19998. (a) In reviewing applications, as part of establishing the priorities set forth in Section 19994 the board shall consider all of the following factors:

(1) Needs of urban and rural areas.

(2) Population growth.

(3) Age and condition of the existing library facility.

(4) The degree to which the existing library facility is inadequate in meeting the needs of the residents in the library service area and the degree to which the proposed project responds to the needs of those residents.

(5) The degree to which the library's plan of service integrates appropriate electronic technologies into the proposed project.

(6) The degree to which the proposed site is appropriate for the proposed project and its intended use.

(7) The financial capacity of the local agency submitting the application to open and maintain operation of the proposed library for applications for the construction of new public libraries.

(b) If, after an application has been submitted, material changes occur that would alter the evaluation of an application, the State Librarian may accept an additional written statement from the applicant for consideration by the board.

19999. (a) A facility, or the part thereof, acquired, constructed, or remodeled, or rehabilitated with grants received pursuant to this chapter shall be dedicated to public library direct service use for a period of not less than 20 years following completion of the project.

(b) The interest of the state in land or a facility, or both, pursuant to the funding of a project under this chapter, as described in subdivision (a), may be transferred by the State Librarian from the land or facility, or both, for which that funding was granted to a replacement site and facility acquired or constructed for the purpose of providing public library direct service.

(c) If the facility, or any part thereof, acquired, constructed, remodeled, or habilitated with grants received pursuant to this chapter ceases to be used for public library direct service prior to the expiration of the period specified in subdivision (a), the board is entitled to recover, from the grant recipient or the recipient's successor in the maintenance of the facility, an amount that bears the same ratio to the value of the facility, or the appropriate part thereof, at the time it ceased to be used for public library direct service as the amount of the grant bore to the cost of the facility or the appropriate part thereof. For purposes of this subdivision, the value of the facility, or the appropriate part thereof, is determined by the mutual

agreement of the board and the grant recipient or successor, or through an action brought for that purpose in the superior court.

(d) Notwithstanding subdivision (f) of Section 16724 of the Government Code, any money recovered pursuant to subdivision (c) shall be deposited in the fund, and shall be available for the purpose of awarding grants for other projects.

Article 3. Fiscal Provisions

20000. Bonds in the amount of three hundred fifty million dollars ($350,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold for deposit in the fund to be used in accordance with, and for carrying out the purposes expressed in, this chapter, including all acts amendatory thereof and supplementary thereto, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of and interest on bonds as the principal and interest become due and payable.

20001. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

20002. (a) For purposes of this chapter, the California Library Construction and Renovation Finance Committee established pursuant to Section 19972 is the "committee" as that term is used in the State General Obligation Bond Law.

(b) For purposes of the State General Obligation Bond Law, the California Public Library Construction and Renovation Board established pursuant to subdivision (c) of Section 19986 is designated the "board."

20003. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in this chapter, including all acts amendatory thereof and supplementary thereto, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

20004. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of and interest on the bonds each year. It is the

duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

20005. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of and interest on bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 20006, appropriated without regard to fiscal years.

20006. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account during the time the money was withdrawn from the General Fund pursuant to this section, from money received from the sale of bonds for the purpose of carrying out this chapter.

20007. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

20008. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval of the electors of the state for the issuance of bonds under this chapter shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

20009. All money deposited in the fund that is derived from premium and accrued interest on bonds sold pursuant to this chapter shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

20010. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the

California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

20011. Amounts deposited in the fund pursuant to this chapter may be appropriated in the annual Budget Act to the State Librarian for the actual amount of office, personnel, and other customary and usual expenses incurred in the direct administration of grant projects pursuant to this chapter, including, but not limited to, expenses incurred by the State Librarian in providing technical assistance to an applicant for a grant under this chapter.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the voters of the California Library Construction and Renovation Bond Act of 2000, as set forth in Section 1 of this act.

SEC. 3. Section 1 of this act shall be submitted to the voters at the March 7, 2000, statewide primary election in accordance with provisions of the Elections Code and the Government Code governing submission of statewide measures to voters.

SEC. 4. Notwithstanding any other provisions of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000" and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of three hundred fifty million dollars ($350,000,000) to provide funds for the construction and renovation of public library facilities in order to expand access to reading and literacy programs in California's public education system and to expand access to public library services for all residents of California." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by a means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to appear on the March 7, 2000, statewide primary ballot, and, at the earliest possible time, expand access to reading and literacy programs in California's public education system and expand access to public library services for all residents of California, it is necessary for this act to go into immediate effect.

CHAPTER 727

An act to add Title 9.5 (commencing with Section 14108) to Part 4 of the Penal Code, relating to the construction, renovation, and infrastructure costs associated with the construction of new local forensic laboratories and the remodeling of existing local forensic laboratories, by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Title 9.5 (commencing with Section 14108) is added to Part 4 of the Penal Code, to read:

TITLE 9.5. THE HERTZBERG-POLANCO CRIME LABORATORIES CONSTRUCTION BOND ACT OF 1999

CHAPTER 1. FINANCES

14108. The proceeds of bonds issued and sold pursuant to this title shall be deposited in the Forensic Laboratories Capital Expenditure Bond Fund, which is hereby created.

14108.1. Bonds in the total amount of two hundred twenty million dollars ($220,000,000), not including the amount of any refunding bonds issued in accordance with Section 14108.11, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for the construction, renovation, and infrastructure costs associated with the construction of new local forensic laboratories and the remodeling of existing local forensic laboratories, for the costs of administering this title, including, but not limited to, the administrative costs of the Forensic Laboratories Authority, as established in Section 14109, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

14108.2. (a) General obligation bonds may be issued by the state to finance the working drawings, preliminary plans, construction, renovation, equipping of the laboratories, and parking facilities and other improvements, betterments, and facilities directly related thereto as described in Section 14108.1.

(b) The amount of the general obligation bonds to be sold shall equal the cost of construction, renovation, and equipping of the laboratories and facilities, the cost of working drawings and preliminary plans, sums necessary to pay financing costs, including interest during construction, and a reasonable reserve fund.

14108.3. The bonds authorized by this title shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

14108.4. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the Hertzberg-Polanco Forensic Laboratories Construction Act Finance Committee is hereby created. For purposes of this chapter, the Hertzberg-Polanco Forensic Laboratories Construction Act Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Forensic Laboratories Authority is designated the "board."

14108.5. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this title in order to carry out Section 14108.1 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

14108.6. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

14108.7. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this title, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this title, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out Section 14108.8, appropriated without regard to fiscal years.

14108.8. For purposes of carrying out this title, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this title. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this title.

14108.9. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of carrying out this title. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this title. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this title.

14108.10. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

14108.11. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this title includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this title or any previously issued refunding bonds.

14108.12. Notwithstanding any provision of this title or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this title that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

14108.13. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this title are not "proceeds of taxes" as that term is used in Article XIII B

of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

14108.14. The authority is authorized to apply for any funds that may be available from the federal government to further the purposes of this title.

CHAPTER 2. FORENSIC LABORATORIES AUTHORITY

14109. (a) There is hereby created within the Department of Justice the Forensic Laboratories Authority.

(b) (1) The authority shall be composed of seven members, including the Attorney General, the State Director of Crime Laboratories, and five members who shall be appointed by the Governor, with the advice and consent of the Senate.

(2) Of the members that are first appointed, two shall be appointed for a term of two years, two for a term of three years, and one for a term of four years. 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 first appointments shall be made by April 1, 2000.

(d) The first meeting of the authority shall occur by May 15, 2000. The authority shall meet at least twice a year.

(e) The Governor shall select a chair and vice-chairperson from among its members. Four members of the authority shall constitute a quorum.

(f) If any appointed member is not in attendance for three consecutive meetings, the authority shall recommend to the Governor that the member be removed and the Governor shall make a new appointment for the remainder of the term.

(g) The authority shall comply with the state open meetings law pursuant to Article 9 (commencing with Section 11120) of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of, the Government Code.

14109.1. Members of the authority shall receive no compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. For purposes of compensation, attendance at meetings of the authority shall be deemed performance by a member of the duties of his or her state or local governmental employment.

14109.2. This chapter shall be repealed on January 1, 2010.

CHAPTER 3. FORENSIC LABORATORY CONSTRUCTION AND REMODELING APPLICATIONS

14109.5. (a) The authority shall consider applications for funding the construction of new local forensic laboratories and the renovation of existing local forensic laboratories.

(b) Upon approval of an application, the authority shall have the authority to make grants from the Forensic Laboratories Capital Expenditure Bond Fund to fund the construction and renovation of forensic laboratories.

(c) The manner and form of the application shall be prescribed by the authority.

(d) The Legislature may establish additional criteria which the authority shall use for approval of applications for construction and renovation.

(e) The authority shall make grants for the construction and renovation of forensic laboratories only if the following requirements are met:

(1) The applicant provides 10 percent in matching funds. This requirement may be modified or waived by the Legislature where it determines that it is necessary to facilitate the expeditious and equitable construction or remodeling of local forensic laboratory facilities.

(2) The governing body of the entity, or of each entity, comprising the applicant approves a resolution or resolutions agreeing to pay for the ongoing operating costs of the laboratory.

(3) The application will not jeopardize the tax-exempt status of the bond issue.

(4) Construction or renovation project management is vested in a public works, or similar agency with the requisite expertise.

(5) The construction or renovation project complies with state or local bidding and contract requirements.

SEC. 2. Section 1 of this act shall take effect upon adoption by the voters at the March 7, 2000, primary election, of the Hertzberg-Polanco Crime Laboratories Construction Bond Act of 1999, as set forth in Section 1 of this act.

SEC. 3. Section 1 of this act shall be submitted to the voters at the March 7, 2000, primary election, in accordance with provisions of the Elections Code and Government Code governing the submission of statewide measures to the voters.

SEC. 4. (a) Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "The Hertzberg-Polanco Crime Laboratories Construction Bond Act of 1999," and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of two hundred twenty million dollars ($220,000,000) to provide funds for a program for the construction, renovation, and infrastructure costs associated with the construction of new local forensic laboratories and the remodeling of existing local forensic laboratories." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) If the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent

of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Secretary of State has directed that in order for a bond measure to be placed on the March 7, 2000, ballot, the measure must contain an urgency provision. In order to submit this bond measure to the voters on that ballot and to ensure funding of local forensic laboratories, it is necessary that this act take effect immediately.

CHAPTER 728

An act to amend Section 15819.90 of the Government Code, and to add Chapter 2 (commencing with Section 1100) to Division 5 of the Military and Veterans Code, relating to veterans' homes, by providing the funds necessary therefor through an election for, and the issuance and sale of, bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

(1) The state has opened veterans' homes in the following areas:

(A) Yountville, Napa County, in 1884, which is home to 1125 veterans and is a California State Historical Landmark listed in the California Register of Historical Places.

(B) Barstow, San Bernardino County, in 1996, which is home to 400 veterans.

(2) A veterans' home is under construction in Chula Vista, San Diego County, which will be home to 400 veterans.

(3) There are plans to construct veterans' homes in Lancaster, Los Angeles County, and in Saticoy, Ventura County.

(4) California's Department of Veterans Affairs forecasts a state and federal need of eighty-nine million eight hundred thousand dollars ($89,800,000) to construct veterans' homes in California over the next 10 years.

(5) The department anticipates the need for at least two additional veterans' homes within the next decade.

(6) There are more than 3,000,000 veterans who live in the state.

(7) Recent studies show that the number of veterans who qualify to reside in veterans' homes will increase over the next decade.

(8) The general policy of the department is to not accept veterans into existing veterans' homes who suffer from Alzheimer's disease or other diseases causing dementia.

(b) It is the intent of the Legislature, in enacting this bill, to do all of the following:

(1) Place on the November 7, 2000, general election ballot, a fifty million dollar ($50,000,000) bond act for the construction of veterans' homes in California.

(2) Expand the state's policy to accept into the veterans' homes those veterans who suffer from Alzheimer's disease or other diseases causing dementia.

(3) Set a goal of at least 3 percent of the construction contracts for these homes to be awarded to disabled veteran business enterprises.

SEC. 1.5. Section 15819.90 of the Government Code is amended to read:

15819.90. (a) It is the intent of the Legislature to make an appropriation for three additional sites of the Southern California Veterans' Home, for a total of four sites.

(b) (1) (A) The board shall issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the construction of an additional site of the Southern California Veterans' Home only in accordance with subparagraph (B).

(B) Authorization and bond issuance for the second site shall take place after the department certifies that the construction of the first site, the veterans' home at Barstow, as set forth in Section 15819.85, has been completed and opened, and demonstrates to the State Public Works Board that the facility is fully operational and that there is a demonstrated demand for a second site.

(2) The second, third, and fourth sites shall be in addition to the first site provided for in Section 15819.85.

(c) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold pursuant to Chapter 5 (commencing with Section 15830) for capital outlay for this purpose shall not exceed the sum of twelve million dollars ($12,000,000). This amount shall be available as necessary for the site studies, suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and equipment of site two of the Southern California Veterans Home. These funds shall also be used for repayment of any loan made pursuant to former Section 15819.90, as added by Chapter 943 of the Statutes of 1995, for costs related to the first and second sites.

(d) In addition to the funds appropriated pursuant to subdivision (g), the sum of sixty-six million dollars ($66,000,000) in federal matching funds available pursuant to the State Veterans' Home

Assistance Improvement Act of 1977 (38 U.S.C.A. Sec. 8131 et seq.), is hereby appropriated to the board on behalf of the Department of Veterans Affairs for the purposes of construction or repayment of any loan related to the second, third, and fourth sites of the Southern California Veterans' Home. In the event that bonds are not issued or sold, any loans for the purposes of this section or former Section 15819.90, shall be repaid from the department's annual support appropriations.

(e) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the costs of performance of all functions referred to in subdivision (c), and any additional amounts, as specified in subdivision (h).

(f) The amount of negotiable bond anticipation notes to be sold pursuant to this section shall not exceed the amount of revenue bonds or negotiable notes authorized by this section.

(g) Notwithstanding Section 13340, funds derived for the purposes of this section from the financing methods of Chapter 5 (commencing with Section 15830) are hereby appropriated, without regard to fiscal year, to the board on behalf of the Department of Veterans Affairs for the construction or repayment of any loans related to the second site of the Southern California Veterans' Home.

(h) The State Public Works Board may borrow funds for all phases of the projects from the Pooled Money Investment Account pursuant to Sections 16212 and 16313, and any other legal fund sources.

(i) The board may authorize the augmentation of the cost of the construction of the sites set forth in this chapter pursuant to the board's authority under Section 13332.11. In addition, the board may authorize any additional amounts necessary to pay the costs of financing, including, but not limited to, the payment of interest during construction of the sites, any additional amount as may be authorized by the board to pay the cost of financing a reasonably required reserve fund, interest payable on any interim loan for the homes from the Pooled Money Investment Account pursuant to Section 16312, and the costs of issuance of permanent financing of the sites. Notwithstanding subdivision (d) of Section 13332.11, the board shall defer all augmentations in excess of 10 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(j) The Department of Veterans Affairs is hereby authorized to enter into any lease agreement with the State Public Works Board necessary to achieve completion of the construction phase of the second, third, and fourth Southern California Veterans' Home project sites. The Director of Veterans Affairs shall notify the Chairperson of the Joint Legislative Budget Committee of the director's intention to execute any lease agreement authorized by this section at least 45 days prior to its execution.

SEC. 2. Chapter 2 (commencing with Section 1100) is added to Division 5 of the Military and Veterans Code, to read:

CHAPTER 2. VETERANS' HOMES BOND ACT OF 2000

Article 1. General Provisions

1100. This chapter shall be known, and may be cited, as the Veterans' Homes Bond Act of 2000.

1102. As used in this chapter, the following terms have the following meaning:

(a) "Board" means the Department of Veterans Affairs designated in accordance with subdivision (b) of Section 1108.

(b) "Committee" means the Veterans' Home Finance Committee created pursuant to subdivision (a) of Section 1108.

(c) "Fund" means the Veterans' Home Fund created pursuant to Section 1103.

Article 2. Veterans' Homes

1103. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Veterans' Home Fund, which is hereby created in the State Treasury.

1104. (a) Upon appropriation by the Legislature, money in the fund shall be used by the Department of Veterans Affairs for the purpose of designing and constructing veterans' homes in California and completing a comprehensive renovation of the Veterans' Home at Yountville. Funding from this bond shall be allocated to fund the state's matching requirement to construct or renovate those veterans' homes in Section 1011 first, and then fund any additional homes established under this section. These homes shall be in addition to sites authorized under Section 1011.

(b) Notwithstanding any other provision of law, construction contracts awarded for veterans' homes shall have a statewide participation goal of not less than 3 percent for disabled veteran business enterprises, as defined in subdivision (g) of Section 999.

Article 3. Fiscal Provisions

1105. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the State Treasury to the credit of the Veterans' Home Fund, created by Section 1103.

1106. Bonds in the total amount of fifty million dollars ($50,000,000), not including the amount of any refunding bonds issued in accordance with Section 1130, or as much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used and sold for carrying out the purposes of Section 1104 and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and shall constitute a valid and binding obligation

of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both the principal of, and interest on, the bonds as the principal and interest become due and payable.

1107. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

1108. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Veterans' Home Finance Committee is hereby created. For purposes of this chapter, the Veterans' Home Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Secretary of Veterans Affairs, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the "board."

1109. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

1110. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

1111. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 1112 appropriated without regard to fiscal years.

1112. The Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the

amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this chapter.

1113. The Department of Veterans Affairs may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purposes of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The department shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the department in accordance with this chapter.

1114. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

1115. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

1116. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

1117. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the

California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2.5. Section 1.5 of this act shall become operative only if the voters approve the Veterans' Homes Bond Act of 2000, as set forth in Section 2 of this act, at the March 7, 2000, statewide primary election.

SEC. 3. Chapter 2 (commencing with Section 1100) of Division 5 of the Military and Veterans Code, as added by Section 2 of this act, shall become effective upon the adoption by the voters of the Veterans' Homes Bond Act of 2000, as set forth in Section 2 of this act.

SEC. 4. (a) The Secretary of State shall submit Chapter 2 (commencing with Section 1100) of Division 5 of the Military and Veterans Code (the Veterans' Homes Bond Act of 2000), as set forth in Section 2 of this act, to the voters at the March 7, 2000, statewide direct primary election.

(b) The Secretary of State shall ensure the placement of Chapter 2 (commencing with Section 1100) of Division 5 of the Military and Veterans Code (the Veterans' Homes Bond Act of 2000), as set forth in Section 2 of this act, on the March 7, 2000, statewide direct primary election ballot.

(c) The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the bond act contained in Chapter 2 (commencing with Section 1100) of Division 5 of the Military and Veterans Code (the Veterans' Homes Bond Act of 2000), as set forth in Section 2 of this act. If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding Chapter 2 (commencing with Section 1100) of Division 5 of the Military and Veterans Code (the Veterans' Homes Bond Act of 2000), as set forth in Section 2 of this act, to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall be mailed separately.

SEC. 5. (a) Notwithstanding any other provision of law, with respect to the Veterans' Homes Bond Act of 2000, all ballots of the election shall have printed thereon and in a square thereof, exclusively, the words "Veterans' Homes Bond Act of 2000" (At this point, the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code). Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section

9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Notwithstanding Section 13282 of the Elections Code, the public shall be permitted to examine the condensed statement of the ballot title in subdivision (a) for not more than eight days, and the financial impact statement from the time it is received by the Secretary of State until the end of the eight days. Any voter may seek a writ of mandate for the purpose of requiring any statement of the ballot label, or portion thereof, to be amended or deleted only within that eight-day period.

(d) Where the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voter's choice by means thereof are in compliance with this section.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide adequate facilities for the care of California's veterans at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 729

An act to amend Sections 120102.5 and 120265 of, and to add Section 99400.7 to, the Public Utilities Code, and to amend Sections 30796.7 and 30796.10 of the Streets and Highways Code, relating to transportation.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 99400.7 is added to the Public Utilities Code, to read:

99400.7. Notwithstanding Section 99232, cities within the County of San Diego may file a claim under this article with the transportation planning agency to provide commuter ferry service on San Diego Bay for the purpose of serving peak period commute trips for pedestrians and bicycles. The commuter ferry service may be located anywhere on San Diego Bay, but shall be consistent with the regional transportation plan, shall serve employment centers and high volume activity centers, and may be provided by contract with operators, private entities operating under a franchise or license, or

nonprofit corporations organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

SEC. 2. Section 120102.5 of the Public Utilities Code is amended to read:

120102.5. (a) A majority of the members of the board constitutes a quorum for the transaction of business. All official acts of the board require the affirmative vote of the majority of the members of the board. However, after a vote of the members is taken, a weighted vote may be called by any two members, at least one of whom is not a City of San Diego representative.

(b) In the case of a weighted vote, each of the four representatives of the City of San Diego shall exercise $12^1/_2$ weighted votes, for a total of 50 votes. The County of San Diego and each city, other than the City of San Diego, shall, in total, exercise 49 weighted votes to be apportioned annually by population. The chairperson, if not chosen from the membership of the board, shall exercise one weighted vote.

(c) Approval under the weighted vote procedure requires the vote of the representatives of not less than three jurisdictions representing not less than 51 percent of the total weighted vote to supersede the original action of the board.

(d) The weighted vote procedure shall not be used on any matter of purely intracity local service, unless it is the desire of the affected city or jurisdiction.

(e) The weighted vote procedure shall not be used for purposes of subdivision (c) of Section 120265.

(f) For purposes of subdivision (c), the population of the County of San Diego is the population in the unincorporated area of the county within the area of jurisdiction of the transit development board.

(g) The board shall adopt a policy and procedure to implement this section.

SEC. 2.5. Section 120265 of the Public Utilities Code is amended to read:

120265. (a) The board shall provide a system of regional transit operating services and support activities including, but not limited to, facilities, fare media, information, maintenance, marketing, security, and signing for its area of jurisdiction, to be funded from the regional transit fund which the board shall create. The board may provide the regional services directly, by contract with the San Diego Transit Corporation, or by contract with any other provider of services as it deems appropriate, and upon terms and conditions that the board finds in its best interests. The board shall complete an economic feasibility study of competitive bidding for regional transit service within 180 days from the date of acquisition of the San Diego Transit Corporation and shall update the study at any time the board deems appropriate to consider changed circumstances. The board shall adopt a policy for contract services to permit prices and other

factors to be compared and evaluated prior to negotiating any contract for regional service.

(b) The board shall determine the routes, fares, frequency of service, and hours of operation of regional services. The board shall create a regional transit service advisory committee consisting of a representative from each of the jurisdictions that contributes to the regional transit funds from its apportionment as determined pursuant to Section 99231.

Periodic revisions to the regional route system may be made by the board upon review by the regional transit service advisory committee which shall meet on an as-needed basis, but not less than once a year to review the annual budget and assessment for regional transit services.

(c) (1) The board may annually adopt and amend an assessment formula for funding regional services. The board shall consider the transit needs and revenues for the next five-year period including the following:

(A) Provision of specialized services, as required under the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) Provision of resources adequate for maintaining, rehabilitating, and replacing capital facilities and equipment, including, but not limited to, transit centers and rolling stock.

(C) Identification of matching funds sufficient for avoiding loss of available state and federal funds.

(D) Development of an appropriate balance between local and regional transit services.

(E) Development of the most efficient and effective use of all available local, regional, state, and federal funds, including, but not limited to, funds provided under this division.

(F) Recognition of the needs for the operation of local transit services of the cities and county and any anticipated changes in previous revenue sources for those services, including bridge tolls.

(G) Recognition of the size of the population of each member jurisdiction.

(2) The formula adopted or amended under paragraph (1) may not provide for an assessment for any city that is greater than 50 percent of that city's annual apportionment for support of regional services.

(3) The regional transit service advisory committee created under subdivision (b) shall review, on an annual basis, the assessment formula adopted or amended under paragraph (1) and shall submit to the board any recommended changes to the formula that are based on the factors listed in paragraph (1).

(d) The board may enter into agreements with any local jurisdiction to provide local transit services by the means and upon terms and conditions as may be mutually agreed upon.

(e) The acquisition of the San Diego Transit Corporation by the board shall not create or impose any financial liability upon the

County of San Diego or the cities within the board's area of jurisdiction for any obligations and liabilities of the corporation by virtue of their membership on the board.

SEC. 3. Section 30796.7 of the Streets and Highways Code is amended to read:

30796.7. (a) Notwithstanding any other provision of law, the San Diego Association of Governments, on behalf of the state, may impose a toll on vehicles crossing the San Diego-Coronado Bridge. The toll shall be established by the association after conducting at least one public hearing.

(b) The authority of the commission relative to tolls on the bridge is hereby transferred to the San Diego Association of Governments. All tolls on the bridge shall be at the rates established by the San Diego Association of Governments, except that at no time shall the rate of toll for class 1 vehicles exceed one dollar and fifty cents ($1.50) per vehicle.

(c) (1) The revenues from any tolls imposed on the bridge shall be used first for expenses related to the collection of tolls, including, but not limited to, the installation and operation of an automated toll collection system, if that system is installed by the association, and operation of the bridge, including, but not limited to, reimbursement for any operating and retrofitting costs and, second, for improvements to the bridge and its approaches. Tolls shall be established at an amount which will generate revenue sufficient to meet the requirements set forth in this paragraph, as determined by the department. Maintenance of the bridge shall be funded by the state under Section 188.4.

(2) The revenues from any tolls imposed on the bridge may also be used for costs incurred by the San Diego Association of Governments in administering this section and for any of the following:

(A) Transportation services that either increase the capacity of the bridge and its approaches or reduce the demand for travel in the transportation corridor that includes the bridge.

(B) Alternative forms of transportation, within the transportation corridor that includes the bridge, that reduce congestion and air pollution, including, but not limited to, ferry service and public transit.

(C) Capital improvements and related expenditures within the transportation corridor for construction and maintenance of bikeways.

(d) For the purposes of this section, "transportation corridor" means the San Diego-Coronado Bridge and its approaches which extend from Route 5 in the City of San Diego to the North Island Naval Air Station via Route 282, and to the Naval Amphibious Base via Route 75 in the City of Coronado.

(e) All money deposited in the San Diego-Coronado Toll Bridge Revenue Fund prior to March 26, 1992, and not expended,

encumbered, or programmed before January 1, 1994, is appropriated to the Controller for allocation to the San Diego Association of Governments for the purposes of paragraph (2) of subdivision (c).

(f) The San Diego Association of Governments shall include in the regional transportation improvement program, and every update thereof, an expenditure plan specifying the projects and programs that are to be funded with toll revenues.

(g) If the San Diego Association of Governments, on behalf of the state, imposes tolls pursuant to subdivision (a), it shall reimburse the department for costs incurred by the department in operating the bridge, collecting tolls, and performing other related services. The association and the department shall enter into an agreement which provides for the full reimbursement of the department for all operating costs.

(h) The San Diego Association of Governments shall prepare an annual audit of expenditures that are funded with toll revenues. The audit shall be funded solely with toll revenues and shall not include expenditures made by the department. The association shall review the annual financial report on state-owned toll bridges that is prepared by the department for revenues collected under this section.

SEC. 4. Section 30796.10 of the Streets and Highways Code is amended to read:

30796.10. (a) The San Diego Association of Governments may issue bonds payable from the revenues derived from the tolls imposed on the bridge. The bonds may be issued by the San Diego Association of Governments at any time, and from time to time payable from the revenues from the tolls. The bonds shall be referred to as "toll bridge revenue bonds." The association shall be an instrumentality of the state for the purposes of those issuances.

(b) The revenues from the tolls on the bridge shall be subject to a statutory lien in favor of the bondholders to secure all amounts due on the bonds and in favor of any provider of credit enhancement for the bonds to secure all amounts due to the provider with respect to those bonds. The lien shall immediately attach to the toll revenues and be effective, binding, and enforceable against the San Diego Association of Governments, its successors, creditors, and all others asserting the rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. The toll revenues shall remain subject to the lien until all bonds are paid in full or provisions are made therefor. The bridge shall not become a free public bridge until that time.

(c) The liens on toll revenues created by this section shall be subject to expenditures for the collection of tolls, if those expenditures are not otherwise provided for by statute, including, but not limited to, expenditures relating to the installation and operation of an automated toll collection system, if that system is

installed by the association, but shall have priority over the use of any of the toll revenues for improvements undertaken pursuant to the authorization contained in subdivision (c) of Section 30796.7.

(d) Toll bridge revenue bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the San Diego Association of Governments by a majority vote of the governing board of the association.

The San Diego Association of Governments may from time to time, issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), for the purpose of constructing, improving, or equipping the bridge, or for any of the purposes authorized by Section 30796.7 for the expenditure of toll revenues. Operation of the bridge shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code, and the San Diego Association of Governments shall constitute a "local agency" within the meaning of Section 54307 of the Government Code. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this section. Instead, the San Diego Association of Governments shall authorize the issuance of bonds by resolution, which resolution shall specify all of the following:

(1) The purposes for which the bonds are to be issued.

(2) The maximum principal amount of the bonds.

(3) The maximum term for the bonds.

(e) The maximum rate of interest to be payable upon the bond which interest rates shall not exceed the maximum rate specified in Section 53531 of the Government Code. The rate may be either fixed or variable and shall be payable at the times and in the manner specified in the resolution.

(f) Interest on any bonds issued pursuant to this section shall at all times be free from state personal income tax and corporate income tax.

(g) Any bonds issued pursuant to this section are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. 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, those funds may be invested in the bonds issued pursuant to this section, and whenever bonds of cities, counties, school districts, or other districts within this 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 pursuant to this section may be so used. The provisions of this section 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.

(h) The State of California pledges and agrees with the holders of the bonds issued pursuant to this chapter, and with those parties who may enter into contracts with the San Diego Association of Governments pursuant to the provisions of this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the San Diego Association of Governments to finance the toll bridge improvements and other projects and programs authorized by this chapter. The State of California pledges and agrees not to impair the terms of any agreements made with the holders of bonds, and with the parties who may enter into contracts with the San Diego Association of Governments pursuant to this chapter, and pledges and agrees not to impair the rights or remedies of the holders of any revenue bonds or any parties until the bonds, together with interest, are fully paid and discharged and any contracts are fully performed on the part of the San Diego Association of Governments.

(i) The San Diego Association of Governments may include the pledges made under this section in its revenue bonds.

SEC. 5. For the 1999–2000 fiscal year only, each jurisdiction within the San Diego Metropolitan Transit Development Board area, as described in Section 120054 of the Public Utilities Code, shall be assessed by the board proportionately for the cost of commuter ferry service with the total aggregate amount assessed not to exceed one hundred twenty thousand dollars ($120,000). The board shall determine the specific amount of the assessment for each jurisdiction and claim that amount.

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.

CHAPTER 730

An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offender registration.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address 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 no less than once every 90 days and place of employment, including the name and address of the employer, 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. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(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 or sentencing 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 or sentencing 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register. If a registrant fails to furnish proof of residence within this 30-day period, he or she shall be guilty of a misdemeanor.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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) Except as otherwise provided in paragraph (5), and 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 subparagraph (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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an

employee of a law enforcement agency shall be immune from civil liability.

(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. 1.1. 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 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address, 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 no less than once every 90 days and place of employment, including the name and address of the employer, 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. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(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

or sentencing 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 or sentencing 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the

person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register. If a registrant fails to furnish proof of residence within this 30-day period, he or she shall be guilty of a misdemeanor.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 or juvenile adjudication who willfully violates any requirement of this

section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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) Except as otherwise provided in paragraph (5), and 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 subparagraph (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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health

to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California,

every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.2. 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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall,

within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs 5 and 7, 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.3. 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 a 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address, 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 no less than once every 90 days and place of employment, including the name and address of the employer, 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. The registering

agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(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 or sentencing 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 or sentencing 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register. If a registrant fails to furnish proof of residence within this 30-day period, he or she shall be guilty of a misdemeanor.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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) Except as otherwise provided in paragraph (5), and 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 subparagraph (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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the

Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.4. 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, or while attending school or working in California, as described in subparagraph (G), 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the

person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) of subdivision (n) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an

employee of a law enforcement agency shall be immune from civil liability.

(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. 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 a 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address, 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 no less than once every 90 days and place of employment, including the name and address of the employer, 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. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(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

or sentencing 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 or sentencing 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the

person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register. If a registrant fails to furnish proof of residence within this 30-day period, he or she shall be guilty of a misdemeanor.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 or juvenile adjudication who willfully violates any requirement of this

section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication as specified in this subdivision, he or she hall 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) Except as otherwise provided in paragraph (5), and 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 subparagraph (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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health

to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.6. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county,

or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if that is different from the employer's address, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the

registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 paragraphs 5 and 7, 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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. 1.7. 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, or while attending school or working in California, as described in subparagraph (G), 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 a 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, or changing his or her residence or location within, any city, county, or city and county, or campus 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 more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located.

If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.

(C) 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.

(D) 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, and place of employment including the name and address of the employer, and the address of the person's place of employment if it is different from the employer's address, on a form as may be required by the Department of Justice.

(E) In addition, every person who has ever been adjudicated 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 no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.

(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

(G) Persons required to register in their state of residence who are out-of-state residents employed in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000.

(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 or sentencing 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 or sentencing 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 or hospital 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, granted conditional release without supervised 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 shall 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 shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(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.

(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the day he or she is allowed to register.

(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 or location, whether

within the jurisdiction in which he or she is currently registered or to a new jurisdiction inside or outside the state, 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 or location. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address or location 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 or location.

(2) If the person's new address is in a Department of the Youth Authority facility or a state prison or state mental institution, an official of the place of incarceration, placement, or commitment shall, within 90 days of receipt of the person, forward the registrant's change of address information to the Department of Justice. The agency need not provide a physical address for the registrant but shall indicate that he or she is serving a period of incarceration or commitment in a facility under the agency's jurisdiction. This paragraph shall apply to persons received in a Department of the Youth Authority facility or a state prison or state mental institution on or after January 1, 1999. The Department of Justice shall forward the change of address information to the agency with which the person last registered.

(3) 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 or juvenile adjudication 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 paragraphs 5 and 7, any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication 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, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, 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 or suffers a juvenile adjudication 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 has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) 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) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) 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 subparagraph (C) 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 fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (e), regardless of the offense upon which the duty to register is based, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months.

(8) 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 (4) 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 law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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 ever 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, or Section 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 that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "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, 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 sex 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.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to paragraph (3) may disclose that information in the manner and to the extent authorized by the law enforcement entity.

(5) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (3) to disclose information to additional persons only if the agency does the following:

(A) Determines that all conditions set forth in this subdivision have been satisfied regarding disclosure to the additional persons.

(B) Identifies the appropriate scope of further disclosure.

(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) (1) Any law enforcement agency and employees of any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to paragraph (3) of subdivision (m) or paragraph (4) of subdivision (n) that is provided by a law enforcement agency or an employee of a law enforcement agency shall be immune from civil liability.

(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 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; Section 269; 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 name or address of a listed person's employer, or 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 name or address of a listed person's employer, or the listed 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 update and distribute the CD-ROM or other electronic medium on a monthly 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 any law enforcement agency 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 of California, every district attorney, and every state or local 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. 2.1. 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; Section 269; 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 attempted commission of any of these offenses; 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 name or address of a listed person's employer, or 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 name or address of a listed person's employer, or the listed 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 update and distribute the CD-ROM or other electronic medium on a monthly 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. A person under 18 years of age may accompany an applicant who is that person's parent or legal guardian for the purpose of viewing the CD-ROM or other electronic medium.

(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 any law enforcement agency 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 of California, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local 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) On or before July 1, 2000, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

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

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and SB 341. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, and (3) AB 1193 and AB 1340 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 341, 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 of the Penal Code proposed by both this bill and AB 1193. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 341 and AB 1340 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1193, in which case 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 of the Penal Code proposed by this bill, and AB 1340. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, and (3) SB 341 and AB 1193 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1340, 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 of the Penal Code proposed by this bill, SB 341 and AB 1193. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) AB 1340 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 341 and AB 1193, in which case 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 of the Penal Code proposed by this bill, SB 341 and AB 1340. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) AB 1193 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 341 and AB 1340, 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 of the Penal Code proposed by this bill, AB 1193 and AB 1340. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290 of the Penal Code, (3) SB 341 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1193 and AB 1340, in which case 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 of the Penal Code proposed by this bill, SB 341, AB 1193 and AB 1340. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 2000, (2) all four bills amend Section 290 of the Penal Code, and (3) this bill is enacted after the other three bills, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6. of this bill shall not become operative.

SEC. 5. Section 2.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 1340. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 290.4 of the Penal Code, and (3) this bill is enacted after AB 1340, in which case Section 2 of this bill shall not become operative.

CHAPTER 731

An act to amend Sections 39606, 39660, and 40451 of, to add Section 39617.5 to, to add Part 3 (commencing with Section 900) to Division 1 of, and to add Article 4.5 (commencing with Section 39669.5) to Chapter 3.5 of Part 2 of Division 26 of, the Health and Safety Code, relating to environmental health protection.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Infants and children have a higher ventilation rate than adults relative to their body weight and lung surface area, resulting in a greater dose of pollution delivered to their lungs.

(b) Children have narrower airways than adults. Thus, irritation or inflammation caused by air pollution that would produce only a slight response in an adult can result in a potentially significant obstruction of the airway in a young child.

(c) Children spend significantly more time outdoors, especially in the summer, when ozone air pollution levels are typically highest. National statistics show that children spend an average of 50 percent more time outdoors than adults.

(d) Air pollution is known to exacerbate asthma and be a trigger for asthma attacks in infants and children, 500,000 of whom are afflicted with this chronic lung disease in California.

(e) Infant's and children's developing organs and tissues are more susceptible to damage from some environmental contaminants than are adult organs and tissues.

(f) It is the intent of the Legislature in enacting this act, to require that the state's air quality standards and airborne toxic control measures be reviewed to determine if they adequately protect the health of infants and children, and that these standards and measures be revised if they are determined to be inadequate.

(g) It is also the intent of the Legislature in enacting this act to require the State Air Resources Board and the Office of Environmental Health Hazard Assessment to consider the health

impacts to all populations of children, including special subpopulations of infants and children that comprise a meaningful portion of the general population, such as children with asthma, cystic fibrosis, or other respiratory conditions or diseases, in setting or revising standards pursuant to this act.

SEC. 2. Part 3 (commencing with Section 900) is added to Division 1 of the Health and Safety Code, to read:

PART 3. CHILDREN'S ENVIRONMENTAL HEALTH CENTER

900. There is hereby created the Children's Environmental Health Center within the Environmental Protection Agency. The primary purposes of the center shall include all of the following:

(a) To serve as the chief advisor to the Secretary for Environmental Protection and to the Governor on matters within the jurisdiction of the Environmental Protection Agency relating to environmental health and environmental protection as each of those matters relates to children.

(b) To assist the boards, departments, and offices within the Environmental Protection Agency to assess the effectiveness of statutes, regulations, and programs designed to protect children from environmental hazards.

(c) To coordinate within the Environmental Protection Agency and with other state agencies, regulatory efforts, research and data collection, and other programs and services that impact the environmental health of children, and coordinate with appropriate federal agencies conducting related regulatory efforts and research and data collection.

(d) In consultation with the State Air Resources Board and the Office of Environmental Health Hazard Assessment, and notwithstanding Section 7550.5 of the Government Code, to report to the Legislature and the Governor no later than December 31, 2001, on the progress of the state board and the office toward implementing the act that added this part during the 1999–2000 Regular Session and to make recommendations for any statutory or regulatory changes that may be necessary to carry out the intent of that act to protect the public health, including infants and children, from air pollutants and toxic air contaminants.

SEC. 3. Section 39606 of the Health and Safety Code is amended to read:

39606. (a) The state board shall do both of the following:

(1) Based upon similar meteorological and geographic conditions and consideration for political boundary lines whenever practicable, divide the state into air basins to fulfill the purposes of this division.

(2) Adopt standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and effects on the economy. These

standards may vary from one air basin to another. Standards relating to health effects shall be based upon the recommendations of the Office of Environmental Health Hazard Assessment.

(b) In its recommendations for submission to the state board pursuant to paragraph (2) of subdivision (a), the Office of Environmental Health Hazard Assessment, to the extent that information is available, shall assess the following:

(1) Exposure patterns, including, but not limited to, patterns determined by relevant data supplied by the state board, among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population.

(2) Special susceptibility of infants and children to ambient air pollutants in comparison to the general population.

(3) The effects on infants and children of exposure to ambient air pollutants and other substances that have a common mechanism of toxicity.

(4) The interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

(c) In assessing the factors specified in subdivision (b), the office shall use current principles, practices, and methods used by public health professionals who are experienced practitioners in the field of human health effects assessment. The scientific basis or scientific portion of the method used by the office to assess the factors set forth in subdivision (b) shall be subject to peer review as described in Section 57004 or in a manner consistent with the peer review requirements of Section 57004. Any person may submit any information for consideration by the entity conducting the peer review, which may receive oral testimony.

(d) (1) No later than December 31, 2000, the state board in consultation with the office, shall review all existing health-based ambient air quality standards to determine whether, based on public health, scientific literature, and exposure pattern data, the standards adequately protect the health of the public, including infants and children, with an adequate margin of safety. The state board shall publish a report summarizing these findings.

(2) The state board shall revise the highest priority ambient air quality standard determined to be inadequate to protect infants and children with an adequate margin of safety, based on its report, no later than December 31, 2002. Following the revision of the highest priority standard, the state board shall revise any additional standards determined to be inadequate to protect infants and children with an adequate margin of safety, at the rate of at least one per year. The standards shall be established at levels that adequately protect the health of the public, including infants and children, with an adequate margin of safety.

(e) Nothing in this section shall restrict the authority of the state board to consider additional information in establishing ambient air quality standards or to adopt an ambient air quality standard designed to protect vulnerable populations other than infants and children.

SEC. 4. Section 39617.5 is added to the Health and Safety Code, to read:

39617.5. (a) Not later than January 1, 2003, the state board shall do all of the following:

(1) Evaluate the adequacy of the current monitoring network for its ability to gather the data necessary to determine the exposure of infants and children to air pollutants including criteria air pollutants and toxic air contaminants.

(2) Identify areas where the exposure of infants and children to air pollutants is not adequately measured by the current monitoring network.

(3) Recommend changes to improve air pollution monitoring networks and data collection to more accurately reflect the exposure of infants and children to air pollutants.

(b) In carrying out this section, the state board, in cooperation with the districts, shall expand its existing monitoring program in six communities around the state in nonattainment areas, as selected by the state board, to include special monitoring of children's exposure to air pollutants and toxic contaminants. The expanded program shall include placing air pollution monitors near schools, day care centers, and outdoor recreational facilities that are in close proximity to, or downwind from, major industrial sources of air pollutants and toxic air contaminants, including, freeways and major traffic areas. The purpose of the air pollution monitors shall be to conduct sampling of air pollution levels affecting children. Monitoring may include the use of fixed, mobile, and other monitoring devices, as appropriate.

(c) The expanded monitoring program shall include the following:

(1) Monitoring during multiple seasons and at multiple locations within each community at schools, day care centers, recreational facilities, and other locations where children spend most of their time.

(2) A combination of upgrading existing fixed monitoring sites, establishing new fixed monitoring sites, and conducting indoor and outdoor sampling and personal exposure measurements in each community to provide the most comprehensive data possible on the levels of children's exposure to air pollutants and toxic air contaminants.

(d) Data collected from expanded air quality monitoring activities conducted pursuant to this section may be used for any purpose authorized by law, including, but not limited to, determinations as to whether an area has attained or has not attained the state and national ambient air quality standards, if the monitoring devices from

which the data was collected meet the monitoring requirements specified in Section 58.14 of Title 40 of the Code of Federal Regulations for special purpose monitors, all other monitoring requirements of Part 58 of Title 40 of the Code of Federal Regulations, and all applicable requirements specified in regulations adopted by the state board.

SEC. 5. Section 39660 of the Health and Safety Code is amended to read:

39660. (a) Upon the request of the state board, the office, in consultation with and with the participation of the state board, shall evaluate the health effects of and prepare recommendations regarding substances, other than pesticides in their pesticidal use, which may be or are emitted into the ambient air of California and that may be determined to be toxic air contaminants.

(b) In conducting this evaluation, the office shall consider all available scientific data, including, but not limited to, relevant data provided by the state board, the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, the Department of Pesticide Regulation, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. The evaluation shall be performed using current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, human health effects assessment, risk assessment, and toxicity.

(c) (1) The evaluation shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance, and shall, to the extent that information is available, assess all of the following:

(A) Exposure patterns among infants and children that are likely to result in disproportionately high exposure to ambient air pollutants in comparison to the general population.

(B) Special susceptibility of infants and children to ambient air pollutants in comparison to the general population.

(C) The effects on infants and children of exposure to toxic air contaminants and other substances that have a common mechanism of toxicity.

(D) The interaction of multiple air pollutants on infants and children, including the interaction between criteria air pollutants and toxic air contaminants.

(2) The evaluation shall also contain an estimate of the levels of exposure that may cause or contribute to adverse health effects. If it can be established that a threshold of adverse health effects exists, the estimate shall include both of the following factors:

(A) The exposure level below which no adverse health effects are anticipated.

(B) An ample margin of safety that accounts for the variable effects that heterogeneous human populations exposed to the substance under evaluation may experience, the uncertainties associated with the applicability of the data to human beings, and the completeness and quality of the information available on potential human exposure to the substance. In cases in which there is no threshold of significant adverse health effects, the office shall determine the range of risk to humans resulting from current or anticipated exposure to the substance.

(3) The scientific basis or scientific portion of the method used by the office to assess the factors set forth in this subdivision shall be reviewed in a manner consistent with this chapter by the Scientific Review Panel on Toxic Air Contaminants established pursuant to Article 5 (commencing with Section 39670). Any person may submit any information for consideration by the panel, which may receive oral testimony.

(d) The office shall submit its written evaluation and recommendations to the state board within 90 days after receiving the request of the state board pursuant to subdivision (a). The office may, however, petition the state board for an extension of the deadline, not to exceed 30 days, setting forth its statement of the reasons that prevent the office from completing its evaluation and recommendations within 90 days. Upon receipt of a request for extension of, or noncompliance with, the deadline contained in this section, the state board shall immediately transmit to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline, along with copies of the office's statement of reasons that prevent it from completing its evaluation and recommendations in a timely manner.

(e) (1) The state board or a district may request, and any person shall provide, information on any substance that is or may be under evaluation and that is manufactured, distributed, emitted, or used by the person of whom the request is made, in order to carry out its responsibilities pursuant to this chapter. To the extent practical, the state board or a district may collect the information in aggregate form or in any other manner designed to protect trade secrets.

(2) Any person providing information pursuant to this subdivision may, at the time of submission, identify a portion of the information submitted to the state board or a district as a trade secret and shall support the claim of a trade secret, upon the written request of the state board or district board. Subject to Section 1060 of the Evidence Code, information supplied that is a trade secret, as specified in Section 6254.7 of the Government Code, and that is so marked at the time of submission, shall not be released to any member of the public. This section does not prohibit the exchange of properly designated trade secrets between public agencies when those trade secrets are

relevant and necessary to the exercise of their jurisdiction if the public agencies exchanging those trade secrets preserve the protections afforded that information by this paragraph.

(3) Any information not identified as a trade secret shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information. Upon receipt of a request for the release of information that has been claimed to be a trade secret, the state board or district shall immediately notify the person who submitted the information, and shall determine whether or not the information claimed to be a trade secret is to be released to the public. The state board or district board, as the case may be, shall make its determination within 60 days after receiving the request for disclosure, but not before 30 days following the notification of the person who submitted the information. If the state board or district decides to make the information public, it shall provide the person who submitted the information 10 days' notice prior to public disclosure of the information.

(f) The office and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of, and exposure to, usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community. In determining the importance of these factors, the office and the state board shall consider all of the following information, to the extent that it is available:

(1) Research and monitoring data collected by the state board and the districts pursuant to Sections 39607, 39617.5, 39701, and 40715, and by the United States Environmental Protection Agency pursuant to paragraph (2) of subsection (k) of Section 112 of the federal act (42 U.S.C. Sec. 7412(k)(2)).

(2) Emissions inventory data reported for substances subject to Part 6 (commencing with Section 44300) and the risk assessments prepared for those substances.

(3) Toxic chemical release data reported to the state emergency response commission pursuant to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. Sec. 11023) and Section 6607 of the Pollution Prevention Act of 1990 (42 U.S.C. Sec. 13106).

(4) Information on estimated actual exposures to substances based on geographic and demographic data and on data derived from analytical methods that measure the dispersion and concentrations of substances in ambient air.

SEC. 6. Article 4.5 (commencing with Section 39669.5) is added to Chapter 3.5 of Part 2 of Division 26 of the Health and Safety Code, to read:

Article 4.5. Special Provisions For Infants And Children

39669.5. The Legislature finds and declares that certain toxic air contaminants may pose risks that cause infants and children to be especially susceptible to illness and that certain actions are necessary to ensure their safety from toxic air contaminants.

(a) By July 1, 2001, the following shall occur:

(1) The office, in consultation with the state board, shall establish a list of up to five toxic air contaminants identified or designated by the state board pursuant to Section 39657 that may cause infants and children to be especially susceptible to illness. In developing the list, the office shall take into account public exposures to toxic air contaminants, whether by themselves or interacting with other toxic air contaminants or criteria pollutants, and the factors listed in subdivision (c) of Section 39660. The office shall submit a report containing the list and its reasons for including the toxic air contaminants on the list to the Scientific Review Panel on Toxic Air Contaminants established pursuant to Article 5 (commencing with Section 39670).

(2) The scientific review panel, in a manner consistent with this chapter, shall review the list of toxic air contaminants submitted by the office pursuant to paragraph (1). As part of the review, any person may submit any information for consideration by the panel, which may receive oral testimony.

(b) (1) Within two years of the establishment of the list required pursuant to subdivision (a), the state board shall review and, as appropriate, revise any control measures adopted for the toxic air contaminants identified on the list, to reduce exposure to those toxic air contaminants pursuant to Article 4 (commencing with Section 39665), to protect public health, and particularly infants and children.

(2) Within three years of the establishment of the list required pursuant to subdivision (a), for up to five of those toxic air contaminants for which no control measures have been previously adopted, the state board shall prepare a report on the need for regulations, following the procedure specified in Section 39665. The state board shall adopt within that same three-year timeframe, as appropriate, any new control measures to reduce exposure to those toxic air contaminants pursuant to Article 4 (commencing with Section 39665), to protect public health, particularly infants and children.

(c) Beginning July 1, 2004, the office shall annually evaluate at least 15 toxic air contaminants identified or designated by the state board pursuant to Section 39657, and provide threshold exposure levels and nonthreshold health values, as appropriate, for those toxic air contaminants. The activities required pursuant to this subdivision shall continue until all toxic air contaminants are evaluated. The levels shall be established pursuant to the procedures adopted for

health and risk assessments pursuant to paragraph (2) of subdivision (b) of Section 44360, and taking into account the factors listed in subdivision (c) of Section 39660. Based on this evaluation, and after review by the scientific review panel as prescribed in paragraph (2) of subdivision (a), the office shall update the list established pursuant to subdivision (a), by July 1, 2005, and each year thereafter. Within three years of the initial or subsequent listing update, for up to five of the toxic air contaminants contained on that list for which no control measures have been previously adopted, or for at least five of the toxic air contaminants if more than five toxic air contaminants have been identified, the state board shall prepare a report on the need for regulation, following the procedure specified in Section 39665. The state board shall adopt within that three-year timeframe, as appropriate, new control measures, pursuant to Article 4 (commencing with Section 39665), to reduce exposure to those toxic air contaminants, to protect public health, and particularly infants and children.

(d) Toxic air contaminants evaluated and listed pursuant to this section shall not include substances in those uses that are not subject to regulation by the state board pursuant to this chapter.

SEC. 7. Section 40451 of the Health and Safety Code is amended to read:

40451. (a) The south coast district shall use the Pollutant Standards Index developed by the Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media.

(b) Using existing communication facilities available to it, the south coast district shall notify all schools and, to the extent feasible and upon request, daycare centers in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded.

(c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and recreational facilities in the south coast district the latest scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards are exceeded.

(d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded and the number of days and locations of these occurrences.

SEC. 7.5. Section 40451 of the Health and Safety Code is amended to read:

40451. (a) The south coast district shall use the Pollutant Standards Index developed by the United States Environmental Protection Agency and shall report and forecast pollutant levels daily for dissemination in the print and electronic media. Commencing

July 1, 2001, the south coast district shall also include in its report and forecast levels of PM2.5 in excess of the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.

(b) Using existing communication facilities available to it, the south coast district shall notify all schools and, to the extent feasible and upon request, daycare centers in the South Coast Air Basin whenever any federal primary ambient air quality standard is predicted to be exceeded. Commencing July 1, 2001, using communication facilities available to it, the south coast district shall also notify all schools in the South Coast Air Basin when the ambient level of PM2.5 is predicted to exceed the 24-hour federal ambient air standard, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard.

(c) Whenever it becomes available, the south coast district shall disseminate to schools, amateur adult and youth athletic organizations, and all public agencies operating parks and recreational facilities in the south coast district the latest scientific information and evidence regarding the need to restrict exercise and other outdoor activities during periods when federal primary air quality standards and the 24-hour federal ambient air standard for PM2.5, as adopted in July 1997, or any standards adopted by the United States Environmental Protection Agency that succeed those standards, are exceeded.

(d) Once every two months and annually, the south coast district shall report on the number of days and locations that federal and state ambient air quality standards were exceeded. Commencing July 1, 2001, the south coast district shall also include in that report the number of days and locations on and at which the 24-hour federal ambient air standard for PM2.5, as adopted in July 1997, or any standard adopted by the United States Environmental Protection Agency that succeeds that standard, is exceeded.

SEC. 8. Section 7.5 of this bill incorporates amendments to Section 40451 of the Health and Safety Code proposed by both this bill and SB 1195. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 40451 of the Health and Safety Code, and (3) this bill is enacted after SB 1195, in which case Section 7 of this bill shall not become operative.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 732

An act to add and repeal Section 8175 of the Government Code, relating to the Governor's residence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds and declares that the State of California has not had a permanent residence for the Governor for many years and that the demands of the Governor include the need to live in the state capital in a suitable residence upon inauguration, and include space needs for official entertainment, public receptions, and other duties.

SEC. 2. Section 8175 is added to the Government Code, to read:

8175. (a) There is hereby created in state government the Governor's Permanent Residence Commission to oversee the planning and creation of a Governor's permanent residence. The commission shall consist of the following persons:

(1) The Speaker of the Assembly or his or her designated representative who is also a Member of the Assembly.

(2) The President pro Tempore of the Senate or his or her designated representative who is also a Member of the Senate.

(3) The Minority Leader of the Assembly or his or her designated representative who is also a Member of the Assembly.

(4) The Minority Leader of the Senate or his or her designated representative who is also a Member of the Senate.

(5) The Secretary of the State and Consumer Services Agency, who shall be chair of the commission.

(6) The Secretary of the Business, Transportation and Housing Agency.

(7) The Director of Finance.

(8) The Director of General Services.

(9) The Executive Director of the Capitol Area Development Authority.

Members of the commission may receive staff support from the State and Consumer Services Agency .

(b) The commission shall do all of the following:

(1) Consider space needs and potential designs and options for suitable residential accommodation, official entertainment and public gatherings, and possible workspace for the executive branch.

(2) Consider available sites in the City of Sacramento in the general vicinity of the Capitol building to increase accessibility for the Governor. Site selection may include existing buildings or new construction with consideration given to historic preservation and designs suitable for the surrounding neighborhood.

(3) Consult with the Department of the California Highway Patrol, which provides security for the Governor.

(4) Estimate and propose funding for acquisition and construction or modification of an existing building.

(5) Consult with local area leaders, members and staff of the Capitol Area Development Authority, Capitol Area Committee, historic preservationists, and others to ensure compatibility and consistency with the rich history and social fabric of the Capitol area.

(6) Notwithstanding Section 7550.5, report its preliminary recommendations by January 1, 2000, and its final recommendations by June 30, 2000, to the Governor and the Legislature. The recommendations shall include, but not be limited to, site selection, design criteria, funding, and time estimates.

(c) The Governor's Residence Account is hereby created in the General Fund. Upon appropriation by the Legislature, the moneys in the fund are available for purposes of designing, selecting, purchasing, constructing, and furnishing a permanent residence for the Governor. Any existing funds in the Governor's Mansion Account are hereby transferred to the Governor's Residence Account.

(d) No construction or purchase of an existing building or property may take place for the purposes of a Governor's residence before December 1, 2002.

(e) The commission shall remain in existence until June 30, 2000, and as of that date this section is inoperative. This section is repealed as of January 1, 2003, unless a later enacted statute, enacted on or before January 1, 2003, deletes or extends that date and the commission's existence.

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

In order to ensure orderly planning for a safe and suitable residence for the Governor, it is necessary that this act take effect immediately.

CHAPTER 733

An act to add Article 3 (commencing with Section 5080.50) to Chapter 1.2 of Division 5 of the Public Resources Code, relating to state parks.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 3 (commencing with Section 5080.50) is added to Chapter 1.2 of Division 5 of the Public Resources Code, to read:

Article 3. Leland Stanford Mansion State Historical Park Construction

5080.50. Notwithstanding any provision of law to the contrary, the Director of Parks and Recreation may contract for construction for the preservation and restoration of the Leland Stanford Mansion State Historical Park and related facilities using the design-build process set forth in Section 14661 of the Government Code.

5080.51. The director is authorized to use the method for selection of the design-build entity set forth in clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) of Section 14661 of the Government Code, notwithstanding that the approved project budget may not be ten million dollars ($10,000,000) or more.

5080.52. In addition to the requirements set forth in paragraph (1) of subdivision (d) of Section 14661 of the Government Code, the program required by this article may include, but is not limited to, the following:

(a) The size, type, and desired or required historic and other design character and features of the buildings and site.

(b) Performance specifications covering the historic or other nature and quality of materials, equipment, and workmanship.

(c) A project cost estimate, including a factor for contingencies.

(d) A proposed design and construction schedule showing the critical path of work for both working drawings and construction and all state approvals.

(e) Any other information deemed necessary to describe adequately the state's needs.

The project cost estimate and the proposed design and construction schedule shall be prepared by a design professional duly licensed and registered in this state.

5080.53. The director may accept donations of services, including architectural, engineering, construction management, or other professional services, construction labor and materials, or any other donations, in addition to donations of funds to be integrated into the project on terms and conditions that, in the discretion of the department, will contribute to the successful prosecution and completion of the restoration and preservation project. The director may, in addition to any other criteria authorized by Section 14661 of

the Government Code, include the donation of goods and services as a basis for selection for the design-build entity.

5080.54. In addition to the approvals required by Section 13332.19 of the Government Code, prior to advertising for design-build proposals, the director shall submit to the State Public Works Board the program required by paragraph (1) of subdivision (d) of Section 14661 of the Government Code and Section 5080.52 of this code and shall obtain from the board approval of the scope and cost for the project.

5080.55. Notwithstanding Section 7550.5 of the Government Code, the director shall submit a report containing the program required by paragraph (1) of subdivision (d) of Section 14661 of the Government Code and Section 5080.52 of this code to the Joint Legislative Budget Committee for review and comment not less than 30 days prior to advertising for the submittal of design-build proposals for the project. In addition to any other requirements for the program contained in paragraph (1) of subdivision (d) of Section 14661 of the Government Code and Section 5080.52 of this code, the report shall contain the criteria, including the relative weight to be assigned to the criteria, to be used for the evaluation of the design-build proposals and selection of the design-build entity.

5080.56. Notwithstanding Section 10 of Chapter 66 of the Statutes of 1999, the director shall contract with the Department of General Services or a mutually agreeable private contractor to provide assistance with project management and oversight of the project. Independent professional services contracts may be entered into for inspection services, construction management services, or any other services necessary for proper administration of the project.

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.

CHAPTER 734

An act to amend the heading of Article 2 (commencing with Section 51120) of Chapter 1.5 of Part 28 of, to add Sections 51123 and 51124 to, to add Article 3 (commencing with Section 51130) and Article 4 (commencing with Section 51140) to Chapter 1.5 of Part 28 of, and to repeal and add Sections 51121 and 51122 of, the Education Code, relating to parental involvement, and making an appropriation therefor.

[Approved by Governor October 7, 1999. Filed with
Secretary of State October 10, 1999.]

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

SECTION 1. The heading of Article 2 (commencing with Section 51120) of Chapter 1.5 of Part 28 of the Education Code, as added by Chapter 78 of the Statutes of 1999, is amended to read:

Article 2. Nell Soto Parent/Teacher Involvement Program

SEC. 2. Section 51121 of the Education Code, as added by Chapter 78 of the Statutes of 1999, is repealed.

SEC. 3. Section 51121 is added to the Education Code, to read:

51121. (a) The Nell Soto Parent/Teacher Involvement Program is hereby established for the purpose of providing one-time grant awards to schools in which a majority of teachers and parents agree to strengthen the communication between schools and parents as a means of improving pupil academic achievement.

(b) Any school district or charter school that maintains kindergarten or any of grades 1 to 12, inclusive, may operate a parent/teacher involvement program at any schoolsite that meets each of the requirements set forth in subdivision (c).

(c) The program shall include all of the following elements:

(1) At least 50 percent of the teachers employed at the schoolsite voluntarily agree to participate in either periodic visits to the homes of their pupils or in community meetings that are held at times, and locations, that are convenient to parents.

(2) At least 50 percent of the parents or guardians of pupils enrolled at the schoolsite have voluntarily signed a parent/teacher/pupil compact that requires parental participation in periodic home visits or community meetings. The compact shall also encompass the elements of the parent involvement policy adopted by the State Board of Education on September 9, 1994.

(3) A teacher who participates in the program shall receive training in strategies for communicating effectively with parents and in conducting periodic home visits or community meetings. These strategies may include providing parents with guidance in how to reinforce educational objectives with their children at home.

(4) A teacher shall be compensated for their participation in home visits or community meetings at an hourly rate comparable to his or her regular base salary.

(5) A certification that participating teachers or participating teachers paired with instructional aides, will conduct home visits to a substantial percentage of the enrolled pupils whose parents or guardians have voluntarily signed a parent/teacher/pupil compact at least once annually or that, in the case of high schools or middle schools that participate in the program, will hold at least monthly

community-based meetings at various sites located throughout the attendance area of the high school or middle school.

SEC. 4. Section 51122 of the Education Code, as added by Chapter 78 of the Statutes of 1999, is repealed.

SEC. 5. Section 51122 is added to the Education Code, to read:

51122. (a) The Superintendent of Public Instruction shall allocate funds to school districts and charter schools that have certified to the superintendent that they satisfy the conditions of subdivision (c) of Section 51121. A qualifying school with a pupil enrollment of fewer than 1,000 pupils shall receive a grant of twenty-five thousand dollars ($25,000). A qualifying school with a pupil enrollment of 1,000 or more pupils shall receive a grant of forty thousand dollars ($40,000).

(b) The funds received pursuant to this article may be used to compensate teachers, to provide training to teachers, and to defray other costs associated with the implementation of the Parent/Teacher Involvement Program. A qualifying school shall be funded in the order of receipt of an approval certification until all funds available for the program have been apportioned.

(c) The total amount of the grants allocated pursuant to this section shall not exceed the total amount appropriated for the purposes of this section.

(d) (1) Funding for this program shall be made available to all schools. The Superintendent of Public Instruction shall rank schools in order based on the number of pupils who are eligible to receive free or reduced-cost meals through the United States Department of Agriculture and shall group schools in two halves based on this ranking. Available funding shall then be distributed as provided in paragraph (2) between the two halves. Within each half, qualifying schools shall be funded in order of receipt of the district-approved certification.

(2) Funding shall be distributed between the halves as follows:

(A) The half containing schools with the highest number of pupils who are eligible for free or reduced-cost meals through the United States Department of Agriculture shall receive an amount equal to 75 percent of the funding.

(B) The half containing schools with the second highest number of pupils who are eligible for free or reduced-cost meals through the United States Department of Agriculture shall receive an amount equal to 25 percent of the funding.

(e) Priority for home visits shall be given to low-performing pupils.

SEC. 6. Section 51123 is added to the Education Code, to read:

51123. Nothing in this article shall be construed to supersede any valid restraining order, protective order, or order for custody or visitation issued by a court of competent jurisdiction.

SEC. 7. Article 3 (commencing with Section 51130) is added to Chapter 1.5 of Part 28 of the Education Code, to read:

Article 3. Teresa P. Hughes Family-School Partnership Award and Grant Program

51130. This article shall be known, and may be cited, as the Teresa P. Hughes Family-School Partnership Award and Grant Program and shall be administered by the State Department of Education.

51131. As used in this article, "parent" means the natural, adoptive, or foster parent of a pupil, a surrogate parent, a family member acting on behalf of the parent, or any person having legal authority to make educational decisions on behalf of a pupil.

51132. (a) A school district or county office of education may apply to the State Department of Education for a grant for the Teresa P. Hughes Family-School Partnership Program being operated by a school within the district or may apply for a grant of funds to establish or expand a family outreach program that meets the criteria set forth in subdivision (b) at a school or schools within the district.

(b) A family outreach program shall encourage participation by parents of all pupils at the schoolsite, including, but not limited to, parents of challenged and at-risk families and may include any of the following components:

(1) Providing interpreters or other accommodations, as needed, for parents at school functions.

(2) Providing transportation for pupils and parents to school functions.

(3) Providing child care or food for special school events that parents are invited to attend.

(4) Encouraging parents to serve as coaches or as coordinators in pupil activities.

(5) Providing extra assistance as needed to facilitate parent participation for families of pupils with disabilities and for families of pupils who are at risk.

(6) Establishing a regular system of communication to remind and encourage parents to attend school functions.

(7) Engaging in collaborative efforts between schools and other community groups to further parent participation.

(8) Other creative methods for involving families in the education of their children.

(c) The amount of funds granted to schoolsites pursuant to this section shall be determined by the State Department of Education but shall not exceed fifteen thousand dollars ($15,000) per schoolsite.

51133. (a) The Superintendent of Public Instruction shall award nonmonetary Teresa P. Hughes Family-School Partnership Awards pursuant to this article to school districts and county offices of education for schools that operate outstanding family-school partnership programs.

(b) Nonmonetary awards made pursuant to this section shall be based upon the degree of parent participation and an assessment of any combination of the following types of parental participation:

(1) The membership or other participation in a functioning schoolsite council or other parent organization.

(2) The regular volunteer assistance provided in school activities both in the classroom and outside of the classroom.

(3) The participation in signed compacts or other educational plans with the teachers.

(4) The attendance at school functions that parents or families are invited to attend.

(5) The participation in parent training and education programs established or conducted by the school.

(6) The progress made over time toward increasing parental participation.

(7) The number of home visits by school personnel.

(8) The degree to which the outreach program emphasizes the importance of including parents of all pupils within its efforts to enhance parent participation.

(c) Nonmonetary awards made pursuant to this section shall be in the form of a plaque or sign.

SEC. 8. Article 4 (commencing with Section 51140) is added to Chapter 1.5 of Part 28 of the Education Code, to read:

Article 4. Tom Hayden Community-Based Parent Involvement Grant Program

51140. The Tom Hayden Community-Based Parent Involvement Grant Program is hereby established, whereby state funds appropriated for purposes of the program shall be directed to nonprofit community-based organizations through a grant program administered by the State Department of Education. The state funds shall be allocated to school districts for the purpose of contracting with nonprofit community-based organizations to offer training courses for parents and guardians of schoolage children to enhance parent and guardian involvement in the education of their children in the public schools.

51141. The State Department of Education shall select, through a competitive process, the school districts that shall be awarded training grants under this article. At least 70 percent of the available funding shall be granted to school districts that contract with nonprofit community-based organizations that demonstrate each of the following:

(a) Ability to recruit and retain parent populations with traditionally low participation rates, including, but not limited to, immigrant and low-income parents.

(b) Ability to conduct parent training in various languages to meet the specific cultural and linguistic needs of the school communities to be served.

(c) Experience in collaborating with school districts, individual schools, local agencies, and community educational resources in implementing parent involvement programs.

(d) Ability to retain a high percentage of parent participants in their training course.

51142. (a) A parent involvement training course offered pursuant to this article shall include training on school governance and how parents and guardians can effectively participate in the decisionmaking process at the school and school district level. In addition, the training course shall include at least six of the following subject areas:

(1) Home-school collaboration, including educational compacts.
(2) Child development.
(3) Child motivational skills.
(4) Developing study habits.
(5) Parent-teacher conferencing.
(6) Gang, violence, and drug prevention in the school.
(7) College preparation.
(8) Children's health and nutrition.
(9) Parenting.

(b) A school district that receives a grant pursuant to this article may provide ways to involve schoolage children in the training courses and may encourage parents to involve their schoolage children in the courses.

(c) When developing a training course for a particular school community, a school district receiving a grant pursuant to this article shall solicit the input and participation of parents and guardians from that school community to ensure that the course offered for that school community is aligned to the needs of those parents and guardians.

51143. The amount of grant funding available pursuant to this article shall be determined by the State Department of Education but shall not exceed forty thousand dollars ($40,000) per schoolsite.

SEC. 9. The sum of twenty million dollars ($20,000,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the Superintendent of Public Instruction for allocation for the purposes of the act adding this section, as follows:

(a) Fifteen million dollars ($15,000,000) for purposes of Article 2 (commencing with Section 51120) of Chapter 1.5 of Part 28 of the Education Code.

(b) Two million five hundred thousand dollars ($2,500,000) for purposes of Article 3 (commencing with Section 51130) of Chapter 1.5 of Part 28 of the Education Code. Of this amount, the Superintendent of Public Instruction may use up to one hundred thousand dollars ($100,000) for state administration purposes.

(c) Two million five hundred thousand dollars ($2,500,000) shall be allocated for the purposes of Article 4 (commencing with Section 51140) of Chapter 1.5 of Part 28 of the Education Code. Of this

amount, the Superintendent of Public Instruction may use up to one hundred thousand dollars ($100,000) for state administration purposes.

SEC. 10. The State Department of Education shall report to the Legislature on or before January 1, 2001, on the programs funded pursuant to Article 2 (commencing with Section 51120), Article 3 (commencing with Section 51130), and Article 4 (commencing with Section 51140) of Chapter 1.5 of Part 28 of the Education Code. The report shall include, but not be limited to, the number of school districts and schools funded pursuant to the programs established by the act adding this section, the number of pupils served by the school districts and schools that receive funding, and the nature of the programs established by the act adding this section.

CHAPTER 735

An act to amend Sections 60605, 60640, 60641, 60643, and 60644 of, to add Sections 60605.5 and 60643.1 to, and to repeal Section 60646 of, the Education Code, and to amend Section 11126 of the Government Code, relating to pupil testing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 60605 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content 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. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science. The performance standards and the assessments described in subdivision (c) may be developed concurrently, and shall be based on the content standards adopted by the board pursuant to this section.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors. By November 15, 2000, the

board shall complete the adoption of the portion of the pupil assessments described in subdivision (c) in the core curriculum areas of reading, writing, mathematics, history-social science, and science.

(C) In specifying timeframes for deliverables in the request for proposal developed pursuant to subdivision (i), the State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education 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 or the contractor. 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.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting 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 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 for the development of performance standards and assessments pursuant to subdivision (c) for any core curriculum area until after adoption of statewide content standards for that core curriculum area.

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education 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 a contract or contracts to develop performance standards pursuant to subdivision (a) and 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 and the Superintendent of Public Instruction in the preparation of the request or requests for proposals to develop performance standards and 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 and the Superintendent of Public Instruction in determining methods of ensuring that the achievement test designated pursuant to Section 60642 meets the requirements of Section 60644. The State Department of Education shall provide any necessary staff support for the work of the advisory committee.

(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.

(3) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, appropriations made for the payment of contracts awarded pursuant to this subdivision shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, 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, for that fiscal year.

(j) (1) Not less than 60 days before adopting 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. An assessment may not be copied or taken from the inspection site.

SEC. 2. Section 60605.5 is added to the Education Code, to read:

60605.5. (a) On or before November 15, 2001, the State Board of Education shall adopt a performance standards system that includes the following components:

(1) Performance levels.

(2) Performance level descriptors.

(3) Test administration data from the applicable State Board of Education adopted tests.

(4) Exemplars of pupil performance that exemplify the content and performance standards.

(b) The State Board of Education shall ensure that the performance standards system is aligned to the state's academically rigorous content standards.

SEC. 3. Section 60640 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

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. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Section 60642 and 60643, as applicable.

(g) 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 fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(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 paragraph (1) of subdivision (h), and the payments made to the publishers under the contract required pursuant to Section 60643 between the State Department of Education and the publisher, 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.

SEC. 4. Section 60641 of the Education Code is amended to read:

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 publisher designated pursuant to Section 60642 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by July 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by July 15 of each year in which the achievement test is administered.

SEC. 4.5. Section 60641 of the Education Code is amended to read:

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) (1) (A) Except as provided in subparagraph (B), 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.

(B) The scores of pupils with limited-English-proficient status who have been enrolled in the school district for fewer than 12 months shall not be included in the districtwide, school-level, or grade-level results of the STAR program.

(2) 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.

(3) The results described in this subdivision 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 publisher designated pursuant to Section 60642 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by July 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by July 15 of each year in which the achievement test is administered.

SEC. 5. Section 60643 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999–2000 school year, or by October 15, for any school year thereafter.

(2) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards 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.

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) 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.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contract shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contract shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of any component task that the publisher through its own fault or that of its

subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (3) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(11) The contract shall specify the means by which the delivery date for materials to each school district shall be verified by the publisher and the school district.

(12) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contract specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

SEC. 5.5. Section 60643 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999–2000 school year, or by October 15, for any school year thereafter.

(2) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards 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.

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. Scores of pupils with a limited-English-proficient status should be further disaggregated, based on whether those pupils have been enrolled in the school district for fewer than 12 months. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same form and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and to the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and

in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) 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.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(4) The contract shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contract shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be

recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (3) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(11) The contract shall specify the means by which the delivery date for materials to each school district shall be verified by the publisher and the school district.

(12) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the agreement specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

SEC. 6. Section 60643.1 is added to the Education Code, to read:

60643.1. (a) (1) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60643 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test administered pursuant to subdivision (b) of Section 60640 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level

of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test administered pursuant to subdivision (b) of Section 60640.

(3) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, reading lists that can be distributed to pupils based on a pupil's age and the ranges of scores on the English language arts portion of the achievement test administered pursuant to subdivision (b) of Section 60640.

(4) The requirements of this subdivision shall only become operative upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.

(b) The State Board of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the next higher level for challenging practice.

(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.

(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.

(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists that are developed and published by the State Department of Education and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).

(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or

of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

SEC. 7. Section 60644 of the Education Code is amended to read:

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 (4) to (7), inclusive, of subdivision (a) of Section 60643 by July 8.

(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 as those standards are 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 and produce valid and reliable scores for pupils achievement for each of the State Board of Education designated performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

(2) Until the State Board of Education adopts academically rigorous content 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) Per-pupil cost estimates of administering the proposed assessment.

(h) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(i) 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.

SEC. 8. Section 60646 of the Education Code is repealed.

SEC. 9. 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 the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) 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 any person or entity under the jurisdiction of the commission.

(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. 10. (a) The statutory changes made by the act adding this section to Sections 60640, 60641, 60643, and 60644 and the repeal by this bill of Section 60646 do not apply to the testing program conducted in 1999 and authorized pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code.

(b) Notwithstanding Chapter 78 of the Statutes of 1999, Sections 60640, 60641, 60643, 60644, and 60646, as those sections existed on January 1, 1999, shall govern the testing program conducted in 1999 and authorized pursuant to Article 4 (commencing with Section 60640).

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 60641 of the Education Code proposed by both this bill and AB 144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 60641 of the Education Code, and (3) this bill is enacted after AB 144, in which case Section 60641 of the Education Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of AB 144, at which time Section 4.5 of this bill shall become operative.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 60643 of the Education Code proposed by both this bill and AB 144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 60643 of the Education Code, and (3) this bill is enacted after AB 144, in which case Section 60643 of the Education Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of AB 144, at which time Section 5.5 of this bill shall become operative.

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:

To ensure the orderly operation of the elementary and secondary schools in the state, it is necessary for this act to take effect immediately.

CHAPTER 736

An act to amend Sections 41365 and 47661 of the Education Code, relating to charter schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 41365 of the Education Code is amended to read:

41365. (a) The Charter School Revolving Loan Fund is hereby created in the State Treasury. The Charter School Revolving Loan Fund shall be comprised of federal funds obtained by the state for charter schools and any other funds appropriated or transferred to the fund through the annual budget process. Funds appropriated to the Charter School Revolving Loan Fund shall remain available for the purposes of the fund until reappropriated or reverted by the Legislature through the annual Budget Act or any other act.

(b) Loans may be made from moneys in the Charter School Revolving Loan Fund to a chartering authority for charter schools that are not a conversion of an existing school, or directly to a charter school that qualifies to receive funding pursuant to Chapter 6 (commencing with Section 47630) that is not a conversion of an existing school, upon application of a chartering authority or charter school and approval by the Superintendent of Public Instruction. A loan is for use by the charter school during the period from the date the charter is granted pursuant to Section 47605 to the end of the fiscal year in which the charter school first enrolls pupils. Money loaned to a chartering authority for a charter school, or to a charter school, pursuant to this section shall be used only to meet the purposes of the charter granted pursuant to Section 47605. The loan to a chartering authority for a charter school, or to a charter school, pursuant to this subdivision shall not exceed two hundred fifty thousand dollars ($250,000). This subdivision does not apply to a charter school that obtains renewal of a charter pursuant to Section 47607.

(c) Commencing with the first fiscal year following the fiscal year the charter school first enrolls pupils, the Controller shall deduct from apportionments made to the chartering authority or charter school, as appropriate, an amount equal to the annual repayment of the amount loaned to the chartering authority or charter school for the charter school under this section and pay the same amount into the Charter School Revolving Loan Fund in the State Treasury. Repayment of the full amount loaned to the chartering authority shall be deducted by the Controller in equal annual amounts over a number of years agreed upon between the loan recipient and the State Department of Education, not to exceed five years for any loan.

(d) (1) Notwithstanding other provisions of law, a loan may be made directly to a charter school pursuant to this section only in the case of a charter school that is incorporated.

(2) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter school pursuant to this section, the chartering authority shall, also, be liable for repayment of the loan.

SEC. 2. Section 47661 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

47661. For purposes of paragraph (1) of subdivision (a) of Section 42238.5, a sponsoring school district's average daily attendance shall be computed as follows:

(a) Compute the sponsoring school district's regular average daily attendance in the current year, excluding all attendance of pupils in charter schools.

(b) Compute the sponsoring school district's second principal apportionment regular average daily attendance for the prior year, excluding all attendance of pupils who either attended a charter school in the prior year or who satisfy both of the following conditions:

(1) He or she attended one or more noncharter schools of the school district between July 1 and the last day of the second period, inclusive, in the prior year.

(2) He or she attended a charter school sponsored by the school district between July 1 and the last day of the second period, inclusive, in the current year.

(c) To the greater of the amounts computed pursuant to subdivisions (a) and (b), add the regular average daily attendance in the current year of all pupils attending charter schools sponsored by the district that are not funded pursuant to this chapter.

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

In order that necessary educational opportunities can be made available for the entire 1999–2000 public school year, it is necessary that this act take effect immediately.

CHAPTER 737

An act to amend Section 44253.8 of, and to add and repeal Section 44259.8 of the Education Code, relating to teacher credentialing.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) California needs between 250,000 and 300,000 teachers in the next 10 years.

(2) Other states have initiated signing bonuses of one thousand dollars ($1,000) to twenty thousand dollars ($20,000) in order to attract new teachers to the teaching profession. California must also be aggressive in its effort to recruit, train, and retrain professionals in the teaching profession and to reduce barriers to entering the teaching profession, while maintaining high standards of competency for teachers.

(b) It is the intent of the Legislature to allow highly qualified teaching candidates the opportunity to enter the teaching profession with relative ease and to ensure that teaching candidates are truly competent professionals prior to obtaining a professional clear teaching credential.

SEC. 2. Section 44253.8 of the Education Code is amended to read:

44253.8. (a) For the examinations required by Sections 44253.5 and 44253.7, the commission shall charge examination fees that are sufficient to recover the costs of developing and administering the examinations, including the costs of periodic studies of the examinations, except to the extent that these costs are recovered by appropriations from another source of funds.

(b) In addition to the fees collected pursuant to subdivision (a), within the limits set forth in this chapter, the commission may establish and collect fees to recover its costs for the administration of any assessment of teaching competence adopted by the commission to implement the provisions of this chapter, unless the costs are recovered by appropriations from another source of funds.

SEC. 3. Section 44259.8 is added to the Education Code, to read:

44259.8. (a) Upon the recommendation of the governing board of a school district, the commission shall issue a California

Preliminary (CAP) credential to any person who displays knowledge and expertise in a subject area as demonstrated by all of the following qualifications:

(1) Possession of a postbaccalaureate or graduate degree in a subject specified in Section 44257 from a regionally accredited institution of higher education.

(2) Five or more full-time equivalent years of practice in the field for which the postbaccalaureate or graduate degree was awarded.

(3) Basic skills proficiency as measured by the test adopted pursuant to Section 44252.

(b) The CAP credential is a preliminary single subject teaching credential. The CAP credential shall authorize teaching in the subject or subject area, or the performance of services, approved by the commission and designated on the credential. The commission shall also approve and designate on the credential the grade level or levels for which the teaching or service authorization is valid.

(c) The governing board of a school district electing to recommend a person for the CAP credential shall do the following:

(1) Enroll candidates for the CAP credential in a preservice training program for a minimum of 40 hours of pedagogical training that is aligned with the California Standards for the Teaching Profession. A candidate for the CAP credential shall complete this training before providing classroom instruction. The preservice training program shall include the following:

(A) Preparation in classroom management and organization.

(B) Grade-level curriculum content and instructional models and strategies.

(C) Pupil assessment practices.

(D) Literacy development in the subject to be authorized on the credential.

(E) Equity, access, and diversity training.

(F) Appropriate instructional strategies for English language learners and pupils with special needs.

(2) Develop an individual program of professional preparation consisting of not less than 150 hours of study for each candidate to pursue professional development in the areas specified in subparagraphs (A) to (F), inclusive, of paragraph (1) and designed to assist the candidate in passing the assessment specified in paragraph (2) of subdivision (e).

(3) Require each recipient of the CAP credential to complete the preservice training program specified in paragraph (1) and the preparation program specified in paragraph (2).

(d) Each CAP credential shall be issued initially and renewed for the following periods of time pending completion of the requirements of this section:

(1) The CAP credential shall be valid for two years to allow for completion of the requirements of subdivision (e).

(2) Upon the completion of the requirements of subdivision (e), the CAP credential shall, upon application, be renewed for two additional years to allow for completion of the requirements of subdivision (f).

(3) Upon completion of the two-year renewal period and completion of the requirements of subdivision (f), the holder of a CAP credential shall be eligible, upon application, for a professional clear teaching credential.

(e) Holders of a CAP credential shall meet the following requirements prior to receiving a two-year renewal of the CAP credential:

(1) Completion of the individual program of professional preparation offered pursuant to paragraph (2) of subdivision (c).

(2) Demonstration of basic pedagogical skills by passing the teacher performance assessment that is adopted by the commission pursuant to Section 44320.2.

(f) Holders of a renewed CAP credential shall meet the following additional requirements prior to obtaining a professional clear credential:

(1) Participation in a two-year induction program, as specified in paragraph (2) of subdivision (c) of Section 44259 or Section 44279.1, that is designed to extend the teacher's prior preparation and help the teacher prepare for the assessment requirement of paragraph (2).

(2) Demonstration of teaching competence by passing an assessment of the depth and breadth of the teacher's pedagogical knowledge, skills, and abilities that shall be adopted for this purpose by the commission.

(3) Establishment of subject matter competence pursuant to paragraph (5) of subdivision (b) of Section 44259.

(g) The commission may not accept new applications for the CAP credential after January 1, 2005.

(h) The commission shall report to the Legislature by February 1, 2004 on the following:

(1) The number of CAP credentials issued in each subject specified in Section 44257.

(2) The retention rates of candidates who receive a CAP credential.

(3) Recommendations for improvements to the CAP credential program.

(i) This section shall remain in effect until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

CHAPTER 738

An act to amend Sections 87861, 87863, 87883, and 87884 of, to add Section 87482.4 to, and to repeal Section 87865 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) California's community colleges have historically hired part-time faculty to meet short-term community needs. By employing working professionals as teachers, this practice has the effect of enriching the curriculum and strengthening the tie between the college and its community.

(b) Part-time faculty also provide hiring flexibility, and often fill voids created by unanticipated enrollment growth. In some cases, part-time faculty are able to provide colleges with technical expertise that regular full-time faculty may lack, and can do so at a lower cost than full-time faculty.

(c) Part-time faculty are usually paid only for the hours they are actually in the classroom, with no compensation for related work performed outside of the classroom, including, but not limited to, research, preparation time, and evaluation of student work.

(d) However, rapidly expanding community colleges are now overusing part-time faculty. Community colleges often utilize part-time positions for financial reasons alone, rather than reasons related to the enhancement of the curriculum. California's Community College system currently employs 67 percent of its teaching force in part-time positions. Temporary contracts are being misused to employ part-time faculty members when the duration and nature of prior service, together with the overall circumstances of the employment relationship, indicate that a full-time position would be more appropriate. This practice is unfair to the part-time faculty member because, as a part-time faculty member, the person will not be able to attain a salary commensurate with the nature and type of service that the person has provided to the community college.

(e) The principle of equal pay for equal work requires that part-time faculty be provided compensation that is directly proportionate to full-time faculty employment. In this way, part-time faculty employed in settings that more closely resemble full-time situations will receive compensation that more closely resembles full-time compensation.

SEC. 2. Section 87482.4 is added to the Education Code, to read:

87482.4. (a) The Legislature finds and declares that, in the state's community college system, teaching constitutes a greater share of the faculty workload, as compared to the California State University or the University of California systems. California's community college system requires that a faculty member hold, as a basic qualification, a master's degree. Furthermore, the community college system uses a different professional review process, as compared to the California State University or the University of California systems.

(b) The California Postsecondary Education Commission shall conduct a comprehensive study of the California Community College system's part-time faculty employment, salary, and compensation patterns as they relate to full-time community college faculty with similar education credentials and work experience. The study shall include a representative sample of urban, rural, and suburban community colleges in California and shall also refer to similarly situated community colleges in other states.

(c) The study specified in subdivision (b) shall include, but not necessarily be limited to, the addressing of policy options available to achieve pay equity between community college part-time faculty and full-time faculty and shall also include both of the following:

(1) A quantitative analysis examining duties and tasks of part-time faculty as compared to full-time faculty. The duties and tasks examined shall include classroom teaching, preparation, office hours, recordkeeping, student evaluations, recommendations, and other professional practices that compare the similarities and differences between a part-time and full-time faculty position. This quantitative analysis shall also include both of the following:

(A) An examination of whether part-time faculty salaries vary significantly among community colleges and the factors that are associated with any salary differential.

(B) Data concerning the salary compensation pattern for part-time community college faculty in California and in similarly situated community colleges in other states, and the disparity between part-time and full-time compensation for the equivalent education and experience.

(2) An identification of specific policy and fiscal recommendations that would enable the California Community Colleges to achieve a compensation schedule that achieves pay equity for part-time faculty.

(d) The California Postsecondary Education Commission shall, in conducting the study required by this section, consult various representatives of the education community, including the Board of Governors of the California Community Colleges, community college faculty groups, and other interested parties.

(e) Notwithstanding Section 7550.5 of the Government Code, the California Postsecondary Education Commission shall release the

preliminary findings of the study required by this section to the Legislature and the Governor, on or before March 31, 2000, and shall transmit the study to the Legislature and the Governor on or before July 1, 2000.

(f) It is the intent of the Legislature that funding for conducting the study required by this section shall be made available through an appropriation, either in future legislation or in the annual Budget Act, in an amount of up to one hundred fifty thousand dollars ($150,000).

SEC. 3. Section 87861 of the Education Code is amended to read:

87861. For the purposes of this article:

(a) "Health insurance benefits" include medical benefits but do not include vision or dental benefits.

(b) "Part-time faculty" refers to any faculty member whose teaching assignment equals or exceeds 40 percent of the cumulative equivalent of a minimum full-time teaching assignment.

(c) The changes made to subdivision (b) during the 1999 portion of the 1999–2000 Regular Session of the Legislature shall be operative in any fiscal year only if funds are appropriated for purposes of those changes in the annual Budget Act or in another measure. If the amount appropriated in the annual Budget Act or in another measure for purposes of this section is insufficient to fully fund those changes for the fiscal year, the chancellor shall prorate the funds among the community college districts affected by this section.

SEC. 4. Section 87863 of the Education Code is amended to read:

87863. (a) A part-time faculty member and his or her eligible dependents are eligible to participate in the program established pursuant to this article.

(b) The changes made to subdivision (a) during the 1999 portion of the 1999–2000 Regular Session of the Legislature shall be operative in any fiscal year only if funds are appropriated for purposes of those changes in the annual Budget Act or in another measure. If the amount appropriated in the annual Budget Act or in another measure for purposes of this section is insufficient to fully fund those changes for the fiscal year, the chancellor shall prorate the funds among the community college districts affected by this section.

(c) Any changes made pursuant to this section to the Part-time Community College Faculty Health Insurance Program shall not affect any part-time health insurance program in effect on January 1, 2000.

SEC. 5. Section 87865 of the Education Code is repealed.

SEC. 6. Section 87883 of the Education Code is amended to read:

87883. (a) The governing board of a community college district may provide compensation for office hours to part-time faculty.

(b) The compensation paid to part-time faculty under this article shall equal at least one paid office hour for every two classes or more taught each week or 40 percent of a full-time load as defined by the community college district.

(c) Nothing in this section precludes compensation under this program for paid office time for each 20 percent of a full-time load, or fraction thereof, as defined by the community college district.

(d) The change made to subdivision (c) during the 1999 portion of the 1999–2000 Regular Session of the Legislature shall be operative in any fiscal year only if funds are appropriated for purposes of that change in the annual Budget Act or in another measure. If the amount appropriated in the annual Budget Act or in another measure for purposes of this section is insufficient to fully fund that change for the fiscal year, the chancellor shall prorate the funds among the community college districts affected by this section.

SEC. 7. Section 87884 of the Education Code is amended to read:

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 toward the 60-percent requirement as specified in Section 87882. These hours shall not be counted towards the hours per week of teaching adult or community college classes for purposes of acquiring eligibility for tenure or for purposes of fulfilling any probationary hour requirements.

(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.

(d) Any changes made by this section to the Community College Part-time Faculty Office Hours Program shall not affect any part-time faculty office hours program in effect on January 1, 2000.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 9. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges in augmentation of Schedule (p) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 1999 (Ch. 50, Stats. 1999) for purposes of the Part-Time Community College Faculty Health Insurance Program established

pursuant to Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of the Education Code.

CHAPTER 739

An act to amend Section 164.56 of the Streets and Highways Code, relating to transportation.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 164.56 of the Streets and Highways Code is amended to read:

164.56. (a) It is the intent of the Legislature to allocate ten million dollars ($10,000,000) annually to the Environmental Enhancement and Mitigation Program Fund, which is hereby created.

(b) Local, state, and federal agencies and nonprofit entities may apply for and may receive grants, not to exceed five million dollars ($5,000,000) for any single grant, to undertake environmental enhancement and mitigation projects that are directly or indirectly related to the environmental impact of modifying existing transportation facilities or for the design, construction, or expansion of new transportation facilities.

(c) Projects eligible for funding include, but are not limited to, all of the following:

(1) Highway landscaping and urban forestry projects designed to offset vehicular emissions of carbon dioxide.

(2) Acquisition or enhancement of resource lands to mitigate the loss of, or the detriment to, resource lands lying within the right-of-way acquired for proposed transportation improvements.

(3) Roadside recreational opportunities, including roadside rests, trails, trailheads, and parks.

(4) Projects to mitigate the impact of proposed transportation facilities or to enhance the environment, where the ability to effectuate the mitigation or enhancement measures is beyond the scope of the lead agency responsible for assessing the environmental impact of the proposed transportation improvement.

(d) Grant proposals shall be submitted to the Resources Agency for evaluation in accordance with procedures and criteria prescribed by the Resources Agency. The Resources Agency shall evaluate proposals submitted to it and prepare a list of proposals recommended for funding. The list may be revised at any time. Prior to including a proposal on the list, the Resources Agency shall make

a finding that the proposal is eligible for funding pursuant to subdivision (f).

(e) Within the fiscal limitations of subdivisions (a) and (b), the commission shall annually award grants to fund proposals that are included on the list prepared by the Resources Agency pursuant to subdivision (d).

(f) Projects funded pursuant to this section shall be projects that contribute to mitigation of the environmental effects of transportation facilities, as provided for by Section 1 of Article XIX of the California Constitution.

(g) Notwithstanding Section 7550.5 of the Government Code, on or before December 31 of each year, the commission shall provide the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review with a list of projects funded from the Environmental Enhancement and Mitigation Program during the previous fiscal year and a copy of the most recent criteria for allocating grants pursuant to this section.

CHAPTER 740

An act to amend and renumber Sections 25000 and 25001 of, and to add Part 13.5 (commencing with Section 25000) to Division 1 of Title 1 of, the Education Code, relating to the State Teachers' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25000 of the Education Code is amended and renumbered to read:

24975. (a) The board may develop one or more deferred compensation plans under Section 457 of the Internal Revenue Code that an employer may choose to establish and offer to its employees who are members of the plan under this part or Part 14 (commencing with Section 26000).

(b) If an employer adopts a deferred compensation plan described in subdivision (a):

(1) The employer shall enter into a written contractual arrangement with the system under which the system, or a third-party administrator acting on behalf of the system, shall provide investment, recordkeeping, and administrative services for the deferred compensation plan.

(2) The initial period of the contractual arrangement described in paragraph (1) shall be for a term of five years.

(3) The deferred compensation plan shall continue to constitute a separate plan established and maintained by the adopting employer.

(4) The system shall be treated as acting on behalf of the employer in administering the deferred compensation plan.

(5) The terms and administration of the deferred compensation plan shall be in accordance with the applicable provisions of Section 457 of the Internal Revenue Code.

(6) In administering the deferred compensation plan on behalf of the employer, the board shall have the same investment authority and discretion and be subject to the same fiduciary standards pursuant to Chapter 4 (commencing with Section 22250), with respect to amounts deferred under the deferred compensation plan as applied by the system with respect to the Teachers' Retirement Fund.

(c) If an employer establishes and maintains a deferred compensation plan described in subdivision (a), the deferred compensation plan shall be offered to all of its employees who are members of the plan under this part or Part 14 (commencing with Section 26000).

(d) An employee participating in a deferred compensation plan established by an employer under this section shall enter into a written agreement with the employer for the deferral of compensation prior to the performance of the services to which that compensation relates.

(e) If an employer chooses to establish and maintain a deferred compensation plan described in subdivision (a) that is to be administered by the system, the employer shall take all necessary or appropriate action to implement this section in cooperation with the system.

SEC. 2. Section 25001 of the Education Code is amended and renumbered to read:

24976. (a) The Teachers' Deferred Compensation Fund is hereby established to serve as the repository of funds for the deferred compensation plans administered by the system pursuant to this chapter. Notwithstanding any other provision of law, the system may retain a bank or trust company to serve as custodian of the moneys of the Teachers' Deferred Compensation Fund and to provide for safekeeping, recordkeeping, delivery, securities valuation, or investment performance reporting services, or services in connection with investment of the Teachers' Deferred Compensation Fund.

(b) The Teachers' Deferred Compensation Fund shall consist of the following sources and receipts, and disbursements shall be accounted for as set forth below:

(1) Premiums determined by the system and paid by participating employers and employees for the cost of administering the deferred compensation plan.

(2) Asset management fees as determined by the system assessed against investment earnings of investment option or of other investment funds. These fees shall be disclosed to employees participating in the deferred compensation plan.

(3) Compensation deferrals to be paid in monthly installments by employers sponsoring deferred compensation plans described in Section 24975 for investment by the system. The moneys shall be deposited in the investment corpus account within the Teachers' Deferred Compensation Fund and invested in accordance with the investment options selected by the participating employee.

(4) All moneys in the Teachers' Deferred Compensation Fund for disbursement to participating employees shall be continuously appropriated without regard to fiscal year. Disbursements to participating employees shall be paid from a disbursement account within the Teachers' Deferred Compensation Fund in accordance with applicable federal law pertaining to deferred compensation plans.

(5) Income, of whatever nature, earned on the Teachers' Deferred Compensation Fund shall be credited to the appropriate account. The accounts of participating employees of the employer shall be individually posted to reflect amounts of compensation deferred and investment gains and losses. A periodic statement shall be given to each participating employee.

(6) The system shall have exclusive control of the administration and investment of the Teachers' Deferred Compensation Fund.

(7) All of the system's costs of administering the deferred compensation plans shall be recovered from the employees who participate in the plans or assets of the Teachers' Deferred Compensation Fund in a manner acceptable to the board.

SEC. 3. Part 13.5 (commencing with Section 25000) is added to Division 1 of Title 1 of the Education Code, to read:

PART 13.5. HEALTH CARE BENEFITS PROGRAM

CHAPTER 1. GENERAL PROVISIONS

25000. (a) The State Teachers' Retirement System shall develop a program to provide health care benefits for members, beneficiaries, children, and dependent parents.

(b) All costs incurred by the system pursuant to this part shall be paid by allocations from the Teachers' Retirement Fund as appropriated for that purpose.

(c) The health care benefits program developed by the system pursuant to this part shall not be implemented by the system unless specifically authorized by a statute enacted by the Legislature.

CHAPTER 2. DEFINITIONS

25100. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

25110. "Beneficiary" or "beneficiaries" means any person or entity receiving or entitled to receive an allowance and payment pursuant to Part 13 (commencing with Section 22000) or 14 (commencing with Section 26000) because of the disability or death of a member.

25115. (a) "Dependent child" or "dependent children" means a member's unmarried offspring or stepchild who is not older than 22 years of age and who is financially dependent upon the member on the date the member becomes eligible for benefits pursuant to this part.

(b) "Offspring" shall include the member's child who is born within the 10-month period commencing on the date the member becomes eligible for benefits pursuant to this part.

(c) "Offspring" shall include a child adopted by the member.

(d) "Dependent child" shall not include the member's offspring or stepchild who is adopted by a person other than the member's spouse.

(e) "Financially dependent," for purposes of this section, means that at least one-half of the child's support was being provided by the member on the date the member became eligible for benefits pursuant to this part. The system may require that income tax records or other data be submitted to substantiate the child's financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the date the member became eligible for benefits pursuant to this part.

25120. "Dependent parent" or "dependent parents" means a natural parent or parents of a member, or a parent or parents who adopted the member prior to the earlier of the occurrence of the member's marriage or his or her attaining 18 years of age, and who was receiving one-half or more of his or her support from the member at the time the member became eligible for benefits pursuant to this part.

25125. "Member" means a current or retired employee of an employer, as defined in Section 22131.

SEC. 4. There is hereby appropriated from the Teachers' Retirement Fund the sum of six hundred twenty-five thousand dollars ($625,000) to develop a health care benefits program pursuant to this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to commence the development of a health benefits program as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 741

An act to amend Section 16946 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 16946 of the Welfare and Institutions Code is amended to read:

16946. (a) The Hospital Services Account portion of each county's allocation pursuant to Sections 16932 and 16941 shall be divided into two amounts by:

(1) Multiplying the Hospital Services Account funding portion by the percentage specified in paragraph (5) of subdivision (c) of Section 16945.

(2) Multiplying the amount of the Hospital Services Account funding portion by the percentage specified in paragraph (6) of subdivision (c) of Section 16945.

(b) The amount of each county's Hospital Services Account funding portion calculated in paragraph (1) of subdivision (a) shall be used for payment or support of services provided on or after July 1, 1989, by noncounty hospitals. Beginning in the 1991–92 fiscal year and annually thereafter, these amounts shall be reduced by dividing each county's amount by the total amount for all counties, multiplied by the sum of twelve million dollars ($12,000,000). This amount for each county shall be further divided into two equal parts, as follows:

(1) (A) The first part shall be allocated to each noncounty hospital within a county in amounts determined by multiplying the percentages specified in paragraph (7) of subdivision (c) of Section 16945 by the amount of the first part, and may be used for payment or support of services provided by noncounty hospitals to any eligible patient treated at any time during the fiscal year of the allocation.

(B) Funds distributed during fiscal years subsequent to the 1989–90 fiscal year shall be accounted for on a quarterly basis.

(C) For the 1989–90 fiscal year, noncounty hospitals shall provide the demographic data specified in paragraph (2) of subdivision (b) of Section 16918 on a minimum of 5 percent of patients for whom services are paid for in whole or in part by funds allocated pursuant to this paragraph, in addition to any other requirements specified in Section 16918.

(D) For the 1990–91 fiscal year and fiscal years thereafter, noncounty hospitals shall provide data pursuant to the reporting requirements specified in Section 16918 and shall provide posted and individual notices pursuant to Section 16818 for the duration of any quarter during which funds allocated pursuant to this paragraph are used.

(E) Amounts calculated pursuant to this paragraph shall not be reduced or utilized to offset the costs of administering the Hospital Services Account.

(2) (A) (i) The remaining 50 percent of the funds from the Hospital Services Account shall be distributed by the county to hospitals, including those under contract with the county, to maintain access to emergency care and to purchase other necessary hospital services provided during the fiscal year of the allocation.

(ii) In contracting for emergency care with hospitals in neighboring counties, the county shall not impose conditions to accept transfers that it does not impose on hospitals within its own boundaries.

(B) (i) Prior to distributing funds to hospitals, each county shall consult with the hospitals and consider the historic and projected patterns of care provided by hospitals, by geographic catchment areas within both urban and nonurban areas, unique costs associated with treating disproportionate numbers of severely ill indigent patients, and disproportionate losses sustained by hospitals in the provision of care.

(ii) The county shall also consider the patterns of care of its residents provided by Level I trauma care hospitals in contiguous counties and may make proportionate allocations to those trauma centers.

(c) (1) The amount of each county's Hospital Services Account funding portion calculated in paragraph (2) of subdivision (a) may be used for the payment or support of services provided in county hospitals or noncounty hospitals as determined by each county during the fiscal year of the allocation.

(2) Beginning in the 1991–92 fiscal year and annually thereafter, the amount of each county's funding portion calculated pursuant to paragraph (2) of subdivision (a) shall be reduced by an amount that shall be calculated as follows:

(A) Divide each county's amount of funding under paragraph (2) of subdivision (a) by the total amount of funding under that paragraph for all counties.

(B) Multiply the quotient calculated pursuant to subparagraph (A) by the sum of six million dollars ($6,000,000).

(d) As a condition of receiving funds under this section and Section 16932, each county shall require each county and noncounty hospital to do all of the following:

(1) (A) Maintain the same number and classification of emergency room permits and trauma facility designations as existed on January 1, 1990.

(B) (i) Any hospital that maintained two special permits for basic emergency service on the effective date of this part shall be deemed to have met the requirements of paragraph (1) of subdivision (d), if each of the emergency rooms was located on separate campuses of the hospital and was located not more than two miles from the other emergency room.

(ii) Clause (i) shall apply even if one of the emergency room permits is surrendered after the effective date of this part.

(2) Provide data and reports on the use and expenditure of all funds received. This information shall be in a form and according to procedures specified by the county and the department.

(3) Assure that funds received pursuant to this section are used only for services for persons who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(e) (1) If a county or noncounty hospital does not comply with this section, the county shall recover funds received by the hospital as follows:

(A) For any violation of paragraph (1) of subdivision (d), the county shall recover that portion of the funds received which equal the ratio of the number of months not in compliance to 12 months.

(B) For any violation of paragraph (2) of subdivision (d), the county shall recover all funds received.

(C) For any violation of paragraph (3) of subdivision (d), the county shall recover the difference between the amount received and the amount for which the hospital can document that the funds were used only for services for persons who cannot afford to pay for those services and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(2) The county may deny further payments required by this section until the hospital demonstrates compliance.

(f) Funds withheld or recovered pursuant to this section may be reallocated and distributed by the county pursuant to paragraph (2) of subdivision (b).

(g) (1) Except as provided in paragraph (2), funds allocated pursuant to paragraph (1) or (2) of subdivision (b) which are not expended because a hospital does not participate shall be redistributed pursuant to paragraph (2) of subdivision (b).

(2) If no noncounty hospitals remain to participate, the county may distribute those unexpended funds pursuant to subdivision (c).

(h) (1) In any county that comprises not more than one-half percent of the total state population and in which there are a county hospital and a noncounty hospital with emergency room permits

located within two miles of each other, the county hospital may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d) if, in the alternative, all of the following occur:

(A) The county shall enter into a contractual arrangement with the noncounty hospital.

(B) The county and noncounty hospital shall provide for the availability of at least the same level of emergency services and specialty backup which the county hospital and noncounty hospital provided prior to the surrendering of the emergency room permit.

(C) The county shall establish sufficient capacity, including evening and weekend coverage, in its urgent care clinic and other outpatient clinics to provide for the same or greater level of urgent care and nonemergency visits that were provided in the county hospital emergency department in the calendar year prior to the surrendering of the emergency room permit.

(D) The county shall provide for adequate initial public hearings and ongoing public notification and information, in Spanish and English, on the availability of emergency, urgent care, and nonurgent clinic services and how to obtain those services. The county shall provide for, as part of the ongoing public notification, an outreach program to ensure that the medically indigent community, particularly migrant and seasonal farmworkers, and cultural and linguistic minority patients, are effectively made aware of the alternative system of care and the ways to access it.

(E) The county ensures that there are adequate Spanish translation services and referral services on a 24-hour basis at the noncounty hospital emergency department, and at the county hospital clinics, during their hours of operation.

(F) The county shall ensure, in planning for an alternative delivery system as provided for in paragraph (C), participation of those existing agencies providing health care services to the uninsured and working poor medically indigent, including federally qualified health centers and nonprofit community-based rural health clinics.

(G) The county shall ensure that its alternative delivery system includes medical providers who are culturally and linguistically competent to service the diverse medically indigent populations and have been serving uninsured persons seeking care at the county hospital prior to closing. These providers shall include, among others, nonprofit community-based safety net and traditional providers currently serving both the uninsured and medically indigent populations.

(H) The county shall ensure that its alternative delivery system does not provide less health care services and resources than that being made available to the medically indigent and uninsured prior to the closing of the county hospital.

(2) The department shall annually review the county's compliance with this subdivision. If the department determines that the county is not in compliance with this subdivision, it shall require the county to recover funds and deny further payments pursuant to subdivision (e) until compliance is resumed.

(3) Any county that is permitted under paragraph (1) to surrender its emergency room permit shall continue to fulfill its duties and obligations to provide indigent care according to Section 17000.

(i) Any county of the 20th class or the 24th class that discontinues the provision of acute inpatient care services may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d), provided that the county shall enter into a contractual arrangement with at least one noncounty hospital meeting the requirements of subdivision (d) and all of the requirements of subparagraphs (A) to (H), inclusive, of paragraph (1) of subdivision (h) are met by the county and the contracting noncounty hospital, in which case paragraphs (2) and (3) of subdivision (h) shall apply to that county.

(j) Notwithstanding any other provision of law, any county of the 20th class or the 24th class that meets the requirements and conditions of subdivision (i) shall be eligible to receive funds distributed pursuant to any provision of this section equal to that amount received by the county for the fiscal year immediately preceding the year in which it discontinues the provision of acute inpatient care services. The amount calculated pursuant to this subdivision shall be adjusted annually based upon the funding available from the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund.

CHAPTER 742

An act to add Article 2.3 (commencing with Section 10134) to Chapter 1 of Part 2 of Division 2 of the Insurance Code, relating to structured settlements.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Article 2.3 (commencing with Section 10134) is added to Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read:

Article 2.3. Transfers of Structured Settlement Payment Rights

10134. For the purposes of this article, the following terms have the following meanings:

(a) "Discounted present value" means the fair present value of future payments, as determined by discounting those payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.

(b) "Expenses" means all broker's commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, and charges that a payee would have to pay to transfer the structured settlement payment rights of a structured settlement agreement or that would be deducted from the gross consideration that would be paid to the payee in connection with the transfer of the structured settlement payment rights of a structured settlement agreement.

(c) "Interested parties" means, with respect to a structured settlement agreement, the payee, the payee's attorney, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party who has continuing rights or obligations under the structured settlement agreement.

(d) "Payee" means an individual who received tax-free payments pursuant to a structured settlement agreement.

(e) "Structured settlement agreement" means an arrangement for periodic payment of damages established by settlement or judgment in resolution of a tort claim in which the payment of the judgment or award is paid in whole, or in part, in periodic tax-free payments rather than a lump-sum payment. A structured settlement agreement entered into pursuant to Section 667.7 of the Code of Civil Procedure or Section 970.6 or 984 of the Government Code is not subject to the provisions of this article other than the requirements of Section 10138.

(f) "Structured settlement payment rights" means rights to receive periodic payments, including lump-sum payments, pursuant to a structured settlement agreement, whether from the settlement obligor or an annuity issuer.

(g) "Transfer" means any sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made for consideration.

(h) "Transfer agreement" means the agreement providing for the transfer from the payee to the transferee of structured settlement payment rights of a structured settlement agreement.

(i) "Transferee" means any person receiving structured settlement payment rights resulting from a transfer.

10135. This article is only applicable to transfers entered into on or after January 1, 2000.

10136. No transfer of structured settlement payment rights, either directly or indirectly, shall be effective by a payee domiciled in this state, or by a payee entitled to receive payments under a structured settlement funded by an insurance contract issued by an insurer domiciled in this state or owned by an insurer or corporation domiciled in this state, and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to a transferee, unless all of the following subdivisions are satisfied:

(a) Ten or more days prior to the effective date of a transfer agreement, the transferee provides the payee with a written disclosure statement disclosing all of the following:

(1) The amounts and due dates of the structured settlement payments to be transferred.

(2) The aggregate amount of the structured settlement payments to be transferred.

(3) The gross amount of all expenses, if any, to be deducted from the amount to be paid to the payee in exchange for the payments to be transferred.

(4) The amount payable to the payee, net of all expenses, in exchange for the payments to be transferred.

(5) The discounted present value of all structured settlement payments to be transferred and the discount rate used in determining that discounted present value.

(6) The quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments.

(7) A statement that the payee should consult with their own counsel, accountant, or financial advisor regarding any federal and state income tax consequences arising from the proposed transfer.

(8) A statement that "THE PROVISIONS OF THIS CONTRACT ARE GOVERNED BY CALIFORNIA'S UNFAIR PRACTICES ACT, BUSINESS AND PROFESSIONS CODE SECTION 17200. IF YOU BELIEVE YOU WERE TREATED UNFAIRLY OR WERE MISLED AS TO THE NATURE OF THE OBLIGATIONS YOU ASSUMED UPON ENTERING INTO THIS AGREEMENT, YOU MAY CALL YOUR LOCAL DISTRICT ATTORNEY OR THE OFFICE OF THE ATTORNEY GENERAL FOR ASSISTANCE.

No contract for the transfer of structured settlement payment rights shall be valid unless the seller has separately acknowledged that he or she has read the language required by this subdivision.

(b) The transferee provides written notice of the proposed transfer to all other interested parties 10 or more days prior to the date specified in the transfer agreement as the date on which the transfer agreement first becomes binding upon the payee and 60 or more days prior to the date on which the first payment is due under

a schedule established by the structured settlement agreement. At any time prior to the date on which the transfer agreement first becomes binding upon the payee, the payee may cancel the transfer agreement without cost or further obligation, by providing written notice of cancellation to the transferee.

(c) The contract for transferring the structured settlement payment rights does not violate the provisions of Section 10138.

10137. A transfer of structured settlement payment rights is void unless all of the following conditions are met:

(a) The transfer of the structured settlement payment rights is fair and reasonable and in the best interest of the payee.

(b) The transfer complies with the requirements of this chapter and will not contravene other applicable law.

(c) Notice is given in compliance with subdivision (b) of Section 10136.

10138. (a) A contract for the transfer of structured settlement payment rights shall not include any provision described in the paragraphs below, where the seller is a California resident. Any inclusion of a prohibited provision shall make the contract void and unenforceable.

(1) Any provision that waives the seller's right to sue under any law, or in which the seller agrees not to sue, or which waives jurisdiction or standing to sue under the contract.

(2) Any provision that requires the seller to indemnify and hold harmless the buyer, or to pay the buyer's costs of defense, in any claim or action brought by the seller or on the seller's behalf contesting the sale for any reason.

(3) Any provision that waives benefits or rights conferred by law with respect to garnishment of wages.

(4) Any provision providing that the contract is confidential or proprietary, belonging to the buyer.

(5) Any provision in which the seller stipulates to a confession of judgment.

(6) Any provision requiring the seller to pay the buyer's attorney's fees and costs if the purchase agreement is not completed.

(7) Any provision requiring the seller to pay any tax liability arising under the federal tax laws, other than the seller's own tax liability, if any, that results from the transfer.

(8) Any provision providing for brokerage fees incurred in the contract to be deducted from the purchase price disclosed pursuant to paragraph (4) of subdivision (a) of Section 10136.

(9) Any forum selection provision providing for jurisdiction to be in a court outside of California for any action arising under the contract.

(10) Any choice-of-law provision that provides for controlling law to be other than California law in any action arising under the contract.

(b) This section may not be waived by agreement of the parties.

10139. (a) At the time notice is provided to interested parties pursuant to subdivision (b) of Section 10136, or subdivision (c) of Section 10137, the transferee shall file with the Attorney General a copy of the transfer agreement, a copy of the written disclosure statement required by subdivision (a) of Section 10136, proof of notice to the interested parties, and a verified statement from the transferee stating that all of the conditions set forth in Sections 10136, 10137, and 10138 have been met. The Attorney General may review any transfer agreement filed pursuant to this section in order to ensure that it meets the requirements of this article.

(b) The Attorney General may charge a reasonable fee for the filing of the transfer agreement as provided in this section. The fee shall be paid by the transferee.

10140. Nothing in this article applies to blanket loan agreements in which the lender takes a security interest in the borrower's assets to secure the loan.

10141. Any notice required by this article shall be deemed to have been given if addressed to the recipient's last known address and deposited, first class postage paid, in the United States mail not less than five calendar days prior to the date on which notice is required.

CHAPTER 743

An act to repeal and add Section 22825.01 to the Government Code, relating to health care coverage.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Notwithstanding Section 22825.1 of the Government Code, it is the intent of the Legislature to provide a subsidy to assist state employees and annuitants living in defined rural areas who do not have genuine access to a competitive health maintenance organization and who, instead, must choose a higher-than-average cost health maintenance organization or one or more preferred provider plans and incur substantially higher out-of-pocket expenses for health care.

SEC. 2. Section 22825.01 of the Government Code is repealed.

SEC. 3. Section 22825.01 is added to the Government Code, to read:

22825.01. (a) As used in this section, the following definitions shall apply:

(1) A "rural area" means an area in which there is no board-approved health maintenance organization plan available for enrollment by state employees or annuitants who live in the area.

(2) "Coinsurance" means the provision of a medical plan design in which the plan or insurer and state employee or annuitant share the cost of hospital or medical expenses at a specified ratio.

(3) A "deductible" means the annual amount of out-of-pocket medical expenses that state employees or annuitants must pay before the insurer or self-funded plan begins paying for expenses.

(4) "Department" means the Department of Personnel Administration.

(5) "Fund" means the Rural Healthcare Equity Trust Fund.

(b) (1) The Rural Health Care Equity Trust Fund is hereby established in the State Treasury for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance,, and other out-of-pocket health care costs, which would otherwise be covered if the state employee or annuitant was enrolled in a board-approved health maintenance organization plan, paid by employees and annuitants living in rural areas, as authorized by this section. The fund shall be administered by the department or by a third-party administrator approved by the department in a manner consistent with all applicable state and federal laws. Interest earned from the fund shall be used to offset administrative costs. The board shall determine the rural area for each subsequent fiscal year at the same meeting when the board approves premiums for health maintenance organizations.

(2) Separate accounts shall be maintained within the fund for (A) employees, as defined in subdivision (c) of Section 3513; (B) excluded employees, as defined in subdivision (b) of Section 3527; and (C) annuitants as defined in subdivision (e) of Section 22754.

(c) Moneys in the Rural Health Care Equity Trust Fund shall be allocated to the separate accounts as follows:

(1) As the employer's contribution with respect to each employee, as defined in subdivision (c) of Section 3513, who lives in a rural area and who is otherwise eligible, an amount to be determined through the collective bargaining process.

(2) As the employer's contribution with respect to each excluded employee, as defined in subdivision (b) of Section 3527, who lives in a rural area and who is otherwise eligible, an amount equal to, but not to exceed, the amount given to eligible state employees, as defined in subdivision (c) of Section 3513, who live in a rural area.

(3) As the employer's contribution with respect to each annuitant, as defined in subdivision (e) of Section 22754, who lives in a rural area, is not a Medicare participant, and who is otherwise eligible, an amount not to exceed five hundred dollars ($500) per year.

(4) As to the state's contribution with respect to each state annuitant, as defined in subdivision (e) of Section 22754 who lives in a rural area, participates in a board-approved, Medicare-coordinated health plan, participates in a board-approved health plan, and is otherwise eligible, an amount equal to the Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five

dollars ($75) per month. The state shall not reimburse for penalty amounts.

(5) As to an employee who enters state service or leaves state service during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit, including a person who enters the bargaining unit by promotion in mid-fiscal year.

(d) Each fund of the State Treasury, other than the General Fund, shall reimburse the General Fund for any sums allocated pursuant to subdivision (c) for employees and annuitants whose compensation or annuities are paid from that fund.

(e) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the Rural Health Care Equity Trust Fund shall be disbursed for the benefit of an employee who lives in a rural area and who is otherwise eligible. The disbursements shall, where there is no board-approved health maintenance organization plan available in an area that is open for enrollment for the employee, (1) subsidize the preferred provider plan premiums for the employee, by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under this part and (2) reimburse the employee for a portion or all of his or her incurred deductibles, coinsurances, and other out-of-pocket health-related expenses, which would otherwise be covered if the employee was enrolled in a board-approved health maintenance organization plan.

These subsidies and reimbursements shall be provided according to a plan determined by the department, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(f) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the Rural Health Care Equity Trust Fund shall be disbursed for the benefit of eligible annuitants, as defined in subdivision (e) of Section 22754, who live in rural areas and who are otherwise eligible. The disbursements shall, where there is not board-approved health maintenance organization plan available and open to enrollment by the annuitant, either (A) reimburse the annuitant if he or she is not a Medicare participant, for some or all of his or her deductibles, not to exceed five hundred dollars ($500) per fiscal year, or (B) reimburse Medicare Part B premiums incurred by the annuitant, not to exceed seventy-five dollars ($75) per month, exclusive of penalties. These reimbursements shall be provided by the department.

The state shall not reimburse for penalty amounts.

(g) Any moneys remaining in any account of the fund at the end of any fiscal year shall remain in the account for use in subsequent fiscal years until the account is terminated. Moneys remaining in any account of the fund upon termination, after payment of all

outstanding expenses and claims incurred prior to the date of termination, shall be deposited in the General Fund.

(h) The Legislature finds and declares that the Rural Health Care Equity Trust Fund is a trust fund held for the exclusive benefit of employees, annuitants, and family members.

(h) This section shall cease to be operative on January 1, 2005, or on such earlier date as the board makes a formal determination that HMOs are no longer the most cost-effective health care plans offered by the board.

SEC. 4. All qualified employees and annuitants may seek reimbursement for qualified medical expenses incurred on or after January 1, 2000.

CHAPTER 744

An act to amend Sections 124715, 124725, and 124735 of, to add Sections 124570 and 124745 to, and to repeal and add Sections 124555 and 124710 of, the Health and Safety Code, relating to health care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 124555 of the Health and Safety Code is repealed.

SEC. 2. Section 124555 is added to the Health and Safety Code, to read:

124555. The department shall grant funds, for up to three years per grant, to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining a health services program for seasonal agricultural and migratory workers and their families.

SEC. 3. Section 124570 is added to the Health and Safety Code, to read:

124570. (a) Notwithstanding any other provision of law, the department shall, to the extent that funds are available, provide to a grantee semiannual prospective payments during a 12-month fiscal year.

(b) An amount equal to not more than 50 percent of the total grant shall be processed for payment to the grantee following the enactment of the annual Budget Act, and upon formal execution of the grant by the state. The processing by the department of the grantee's first semiannual prospective payment shall also be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) Except as provided in this paragraph, the third quarter progress budget and expenditure report. If the grantee is currently under the first fiscal year of a three-year multiple grant, this requirement shall not apply as a condition for the grantee's first semiannual prospective payment, unless the grantee is a continuing grantee from the prior three-year multiple year of the grant. If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the department's processing of the first semiannual prospective payment for the current grant year shall be contingent upon the grantee's timely and accurate submission, and the department's approval of, the third quarter progress and budget expenditure report from the previous grant year.

(c) Based upon the grantee's timely and accurate submission of the first quarterly progress and budget expenditure report from the grant year, and satisfactory performance under the grant, the processing of a second semiannual prospective payment of not more than 40 percent of the total grant shall be processed by the department for payment to a grantee no earlier than January 1 during the term of the grant year. The processing of the grantee's second semiannual prospective payment by the department shall be contingent upon all of the following:

(1) A written request for payment from the grantee.

(2) The grantee's timely and accurate submission, and the department's approval, of the first quarterly progress and budget expenditure report.

(3) If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the grantee's timely and accurate submission, and the department's approval, of the fourth quarterly progress and budget expenditure report, and the annual reconciliation report, from the prior year.

(d) An amount equal to 10 percent of the total grant award shall be retained by the department, pending satisfactory submission by the grantee of all quarterly progress and budget expenditure reports and an annual reconciliation report for the grant year. Payment of the withheld 10 percent shall be processed by the department for payment to the grantee upon the grantee's satisfactory completion and submission, and the department's approval, of these reports.

SEC. 4. Section 124710 of the Health and Safety Code is repealed.

SEC. 5. Section 124710 is added to the Health and Safety Code, to read:

124710. The department shall grant funds, for up to three years per grant, to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining rural health services and development projects as specified under this article.

SEC. 6. Section 124715 of the Health and Safety Code is amended to read:

124715. The department may assist community agencies to develop grant proposals.

SEC. 7. Section 124725 of the Health and Safety Code is amended to read:

124725. Project funding shall be for up to three years. Continuation of funding for a project shall depend on progress toward achieving the goals of the project. The director shall make the final decision to continue or discontinue a project. In evaluating the success of a project, the director shall take into account the number of additional persons who are receiving quality health care as a result of the operation of the project and the improvement in health status of the population served by the project.

SEC. 8. Section 124735 of the Health and Safety Code is amended to read:

124735. Each grant for a project shall require the grantee agency to seek third-party reimbursements, including Medi-Cal and private insurance, for any person served under the grant. Each grant shall require the grantee agency to provide reports to the department on reimbursements and may require the grantee agencies to contribute all or part of the proceeds of reimbursements to the department for deposit in the State Treasury in accordance with regulations to be adopted by the department after the regulations are approved by the Director of Finance.

SEC. 9. Section 124745 is added to the Health and Safety Code, to read:

124745. (a) Notwithstanding any other provision of law, the department shall, to the extent that funds are available, provide to a grantee semiannual prospective payments during a 12-month fiscal year.

(b) An amount equal to not more than 50 percent of the total grant shall be processed for payment to the grantee following the enactment of the annual Budget Act, and upon formal execution of the grant by the state. The processing by the department of the grantee's first semiannual prospective payment shall also be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) Except as provided in this paragraph, the third quarter progress budget and expenditure report. If the grantee is currently under the first fiscal year of a three-year multiple grant, this requirement shall not apply as a condition for the grantee's first semiannual prospective payment. If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the department's processing of the first semiannual prospective payment for the current grant year shall be contingent upon the grantee's timely and accurate submission, and the department's approval of, the third quarter progress and budget expenditure report from the previous grant year.

(c) Based upon the grantee's timely and accurate submission of the first quarterly progress and budget expenditure report from the grant year, and satisfactory performance under the grant, the processing of a second semiannual prospective payment of not more than 40 percent of the total grant shall be processed by the department for payment to a grantee no earlier than January 1 during the term of the grant year. The processing of the grantee's second semiannual prospective payment by the department shall be contingent upon all of the following:

(1) A written request for payment from the grantee.

(2) The grantee's timely and accurate submission, and the department's approval, of the first quarterly progress and budget expenditure report.

(3) If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the grantee's timely and accurate submission, and the department's approval, of the fourth quarterly progress and budget expenditure report, and the annual reconciliation report, from the prior year.

(d) An amount equal to 10 percent of the total grant award shall be retained by the department, pending satisfactory submission by the grantee of all quarterly progress and budget expenditure reports and an annual reconciliation report for the grant year. Payment of the withheld 10 percent shall be processed by the department for payment to the grantee upon the grantee's satisfactory completion and submission, and the department's approval, of these reports.

SEC. 10. Sections 1 to 9 of this act shall become operative on July 1, 2000.

SEC. 11. There is hereby appropriated the sum of one million six hundred fifty-three thousand dollars ($1,653,000) from the Physician Services Account in the Cigarette and Tobacco Products Surtax Fund to the State Department of Health Services, in augmentation of Item 4260-111-0233 of the Budget Act of 1999, for expanded access to primary care clinics.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide funding necessary for the expansion of access to primary care clinic programs and to make other changes necessary for the operation of those programs, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 745

An act to amend Sections 25160, 25165, 25175, and 25250.8 of, and to add Section 25250.26 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, "manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the information required by the department and that complies with all applicable federal and state regulations.

(b) (1) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed, as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel. The generator shall use the standard California Uniform Hazardous Waste Manifest supplied by the department for all shipments of hazardous waste for which a manifest is required, except as provided in paragraph (2). A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials that the person completing the manifest reasonably believes are hazardous waste. Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be

hazardous by the importing country or state, a standard California Uniform Hazardous Waste Manifest, or the generator shall complete, in its own form of manifest, the manifest required by the receiving state and shall submit a copy of that manifest to the department within 30 days from the date of the transport, or submission for transport, of the hazardous waste. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for exports by water to foreign countries, 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. If within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may establish manifest requirements that differ from the requirements of this subdivision. The requirements for an alternative form of manifest shall ensure that the hazardous waste is transported by a registered hazardous waste transporter, that the hazardous waste is tracked, and that human health and safety and the environment are protected.

(5) (A) Notwithstanding any other provision of this subdivision, except as provided in subparagraph (B), the generator copy of the manifest is not required to be submitted to the department for any waste transported in compliance with the modified manifest procedures that are not in conflict with this paragraph and that are set forth in Section 66263.42 of Title 22 of the California Code of Regulations, or as that regulation may be further amended, or in Section 25250.8, if the generator, transporter, and facility are all identified by the same EPA identification number on the hazardous waste manifest. Nothing in this paragraph affects the obligation of a facility operator to submit to the department a copy of a manifest pursuant to this section.

(B) If the waste subject to subparagraph (A) is transported out of state, the generator shall either ensure that the facility operator

submits to the department a copy of the manifest or the generator shall submit a copy to the department that contains the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator pursuant to paragraph (3).

(c) (1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The information requested on the manifest shall serve as the data dictionary for purposes of the developing of an electronic reporting format pursuant to Section 71062 of the Public Resources Code. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the federal act or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations.

(d) (1) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, any officer of the California Highway Patrol, any local health officer, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste which the department may require.

(2) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) Any person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) Any person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial

registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e) (1) Any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days from the date of receipt of the hazardous waste. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the facility operator. In instances where the generator or transporter is not required by the generator's state or federal law to sign the manifest, the facility operator shall require the generator and all transporters, excepting intermediate rail transporters, to sign the manifest before receiving the waste at any facility in this state. In lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state may only accept the hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed standard California Uniform Hazardous Waste Manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest information electronically. A generator, transporter, or facility operator who stores manifest information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and the stored information

shall include all the information required to be retained by the department, including all signatures required by this section.

(g) The department shall make available for review, by any interested party, information regarding the department's progress in adopting revised regulations relating to hazardous waste manifests, including specific requirements for milk run operations set forth in Section 66263.42 of Title 22 of the California Code of Regulations.

(h) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

SEC. 2. 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. Any application for an original or renewal registration received on or after January 1, 2000, from a transporter that transports, or intends to transport, used oil, antifreeze, oil/water separation sludge or parts cleaning solvent pursuant to the modified manifesting procedure specified in subdivision (b) of Section 25250.8, shall include a statement by the transporter notifying the department of that transportation.

(b) Any application for registration under this section shall be filed with the department.

SEC. 3. Section 25175 of the Health and Safety Code is amended to read:

25175. (a) (1) The department shall prepare and adopt, by regulation, a list, and on or before January 1, 2002, and when appropriate thereafter, shall revise, by regulation, that list, of specified hazardous wastes that the department finds are economically and technologically feasible to recycle either onsite or at an offsite commercial hazardous waste recycling facility in the state, taking into consideration various factors that shall include, but are not limited to, the quantities of, concentrations of, and potential contaminants in, these hazardous wastes, the number and location of recycling facilities, and the proximity of these facilities to hazardous waste generators.

(2) Whenever any hazardous waste on the list adopted or revised pursuant to paragraph (1) is transported offsite for disposal, the department may request, in writing, by certified mail with return receipt requested, and the generator of that waste shall supply the department with a formal, complete, and detailed statement justifying why the waste was not recycled, in writing, by certified mail with return receipt requested, within 30 calendar days of receipt of the department's request. This statement shall include the generator's assessment of the economic and technological feasibility of recycling the wastes and may include, but is not required to be

limited to, the generator's good faith determination that sending the hazardous waste to any recycling facility where it is feasible to recycle that hazardous waste would constitute an unacceptable environmental or business risk. This determination by the generator shall be based upon an environmental audit or other reasonably diligent investigation of the environmental and other relevant business practices of the recycling facility or facilities where it would otherwise be feasible to recycle the waste. If the request is made of any entity listed in Section 25118 other than an individual, the statement shall be issued by the responsible management of that entity. The department shall keep confidential any trade secrets contained in that statement.

(3) On or before January 1, 2002, the department shall establish a procedure for the department to independently verify whether any hazardous waste identified in the list adopted pursuant to paragraph (1) is disposed of, rather than recycled. The department shall, on or before January 1, 2002, prepare and adopt those regulations that the department finds necessary to ensure that it can fully perform its duties pursuant to subdivisions (k) and (*l*) of Section 25170 to encourage the exchange of hazardous waste and to establish and maintain an information clearinghouse of hazardous wastes that may be recyclable.

(4) On or before July 1, 2000, the department shall establish an advisory committee to advise the department on the development of the regulations required or authorized by this section and on the department's implementation of this section. The advisory committee shall consist of representatives of generators, hazardous waste facility operators, environmental organizations, the Legislature, and other interested parties.

(5) In determining to which generators the department will send the request specified in paragraph (2), the department shall give priority to notifying generators transporting offsite for disposal more than 1000 pounds per year of the type of hazardous waste that would be the subject of the request, to the extent this prioritization is feasible within the information management capabilities of the department.

(b) (1) If, after the department receives a statement from a generator pursuant to paragraph (2) of subdivision (a), the department finds the recycling of a hazardous waste to be economically and technologically feasible, the department shall inform the generator, in writing, by certified mail, return receipt requested, that 30 days after the date the generator receives notice of the department's finding, any of the generators' hazardous waste transported offsite to which the department's finding applies shall, after that date, be recycled. The department may establish procedures for rescinding or modifying any finding made by the department pursuant to this paragraph if there is a pertinent change in circumstances related to that finding.

(2) Notwithstanding paragraph (1), the department shall not find the recycling of a hazardous waste to be economically and technologically feasible if a generator includes a good faith determination in the statement submitted pursuant to paragraph (2) of subdivision (a) that sending its hazardous waste to any recycling facility where it is otherwise feasible to recycle the hazardous waste constitutes an unacceptable environmental or business risk.

(c) A generator who does not recycle a hazardous waste after the generator receives a notice of the departments' findings pursuant to subdivision (b) that the hazardous waste is economically and technologically feasible to recycle is subject to five times the disposal fee that would otherwise apply to the disposal of that hazardous waste pursuant to Section 25174.1.

(d) For purposes of this section, "recycle" and "recycling" shall have the same meaning as set forth in subdivision (a) of Section 25121.1.

SEC. 4. Section 25250.8 of the Health and Safety Code is amended to read:

25250.8. Used oil, antifreeze, oil/water separation sludge, and parts cleaning solvent, including, but not limited to, an aqueous solution, shall be manifested under either one of the following procedures:

(a) The procedures prescribed by Sections 25160 and 25161.

(b) The following modified manifesting procedure, which may be used only for non-RCRA waste or for RCRA waste that is not required to be manifested pursuant to the federal act or the federal regulations adopted pursuant to the federal act and transported by a registered hazardous waste transporter, and used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) The transporter shall complete both the generator's and the transporter's section of the manifest using the transporter's name, Environmental Protection Agency identification number, terminal address, and phone number. The transporter's section shall be completed prior to commencing each day's used oil, antifreeze, oil/water separation sludge, and parts cleaning solvent collections. The driver shall sign and date the generator's and transporter's sections of the manifest.

(3) The transporter shall attach to the front of the manifest legible receipts for each quantity of used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent that is received from a generator. The receipts shall be used to determine the total volume of used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent in the vehicle. After the used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent is delivered, the receipts shall be affixed to the transporter's copy of the manifest. The transporter shall

leave a copy of the receipt with the generator of the used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent. The generator shall retain each receipt for at least three years.

(4) All copies of each receipt shall contain all of the following information:

(A) The name, address, Environmental Protection Agency identification number, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The state manifest number.

(D) The volume of each waste stream received and its proper shipping description, including the hazardous class and identification number, if applicable.

(E) The name and the address of the permitted facility to which the used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent will be transported.

(F) The transporter's name, address, and Environmental Protection Agency identification number.

(G) The driver's signature.

(H) The receipts for antifreeze, oil/water separation sludge, or parts cleaning solvent shall include a statement, signed by the generator, certifying that the generator has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, determined by the generator, to be economically practicable.

(5) The transporter shall enter the total volume of each waste stream transported on the manifest at the change of each date, change of driver, change of transport vehicle, and upon the last delivery of used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent to the receiving facility. The total volume shall be the cumulative amount of each waste stream collected from the generators listed on the individual receipts.

(6) The transporter shall submit the generator copy of the manifest to the department within 30 days of each shipment.

(7) The transporter shall retain a copy of the manifest and all receipts for each manifest at a location within the state for three years.

(8) The transporter shall submit all copies of the manifest to the designated facility. A representative of the designated facility that receives the used oil, antifreeze, oil/water separation sludge, or parts cleaning solvent shall sign and date the manifest, return two copies to the hauler, retain one copy, and send the original to the department within 30 days.

(9) All other manifesting requirements of Sections 25160 and 25161 shall be complied with unless specifically exempted under this subdivision.

(10) Antifreeze, oil/water separation sludge, and parts cleaning solvents may be manifested under the procedures specified in this subdivision only if all of the following requirements are satisfied:

(A) The waste is either a non-RCRA hazardous waste, or it is a RCRA hazardous waste that is not required to be manifested pursuant to the federal act or the federal regulations adopted pursuant to the federal act.

(B) The generator enters into an agreement with the transporter in which the transporter agrees that the transporter will submit a confirmation to the generator that the hazardous waste was transported to an authorized hazardous waste treatment facility for appropriate treatment. The agreement may provide that the hazardous waste will first be transported to a storage or transfer facility in accordance with the applicable provisions of law.

(C) The generator meets one of the following conditions:

(i) The antifreeze, oil/water separation sludge, or parts cleaning solvent is accepted from a generator who has generated used oil that was transported pursuant to the modified manifesting procedure specified in this subdivision in the same 90-day period in which the transporter accepts the antifreeze, oil/water separation sludge, or parts cleaning solvent. Parts cleaning solvent accepted pursuant to this clause shall not be generated from any activity that is physically and operationally separate and distinct from the activity that generated the used oil that was transported pursuant to the modified manifesting procedure specified in this subdivision.

(ii) If the waste is parts cleaning solvent and the generator has not generated used oil that was transported in the same 90-day period in which the transporter accepts the antifreeze, oil/water separation sludge, or parts cleaning solvent, the parts cleaning solvent is accepted from a generator who does not generate more than 1,000 kilograms per month of non-RCRA hazardous waste. For purposes of this clause, any non-RCRA hazardous waste that is generated from an activity that is physically and operationally separate and distinct from an activity that generates the parts cleaning solvent shall not be considered in calculating the amount of non-RCRA hazardous waste generated by the generator, if none of the waste generated from a physically and operationally separate and distinct activity is accepted pursuant to the modified manifesting procedure specified in this subdivision.

(D) If the waste is oil/water separation sludge, the transporter shall comply with both of the following requirements:

(i) The transporter shall not accept more than 500 gallons of oil/water separation sludge from any generator in any 30-day period.

(ii) The oil/water separation sludge is generated from a catch basin, clarifier, or similar collection device that is used to collect water containing residual used oil and antifreeze and incidental amounts of other substances and contaminants associated with activities that generate used oil and antifreeze.

(c) The department may adopt, by regulation, a requirement that transporters using the modified manifesting procedures specified in subdivision (b), or pursuant to Section 66263.42 of Title 22 of the California Code of Regulations, submit a report to the department not more than once every 3 months, summarizing the information required to be contained in the receipts required pursuant to paragraph (4) of subdivision (b).

SEC. 5. Section 25250.26 is added to the Health and Safety Code, to read:

25250.26. (a) Every generator of used oil, other than the owner or operator of a used oil collection center, as defined in Section 48622 of the Public Resources Code, or a household hazardous waste collection facility, as defined in Section 25218.1, that transfers used oil to a recycling facility, shall submit a certification to the transporter that the used oil transferred meets the definition of used oil pursuant to subdivision (a) of Section 25250.1. The certification shall specifically state that the used oil does not contain polychlorinated biphenyls (PCBs) at a concentration of 5 ppm, or greater, in accordance with clause (iv) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 25250.1. This subdivision shall not be construed to affect the methods that a generator is authorized to use to determine whether its waste constitutes used oil or hazardous waste pursuant to Section 66262.11 of Title 22 of the California Code of Regulations or under any other regulation or provision of law.

(b) (1) Any generator that falsely certifies pursuant to subdivision (a) that the used oil transferred to a used oil recycling facility does not contain PCBs at a concentration of 5 ppm or greater shall be liable for damages equal to three times the amount of any costs incurred by any transporter, facility owner or operator, or any other person adversely affected by the false certification, in a civil action that may be brought by the adversely affected party.

(2) In an action pursuant to this subdivision against a generator whose used oil was commingled with used oil generated by other generators prior to being delivered to the facility, the plaintiff shall demonstrate, by clear and convincing evidence, that the generator generated used oil containing PCBs at a concentration of 5ppm or greater.

(c) For the purposes of this section, the calculation of damages shall include any consequential damages caused by mixing the incorrectly certified PCB-contaminated used oil with other used oil.

(d) Nothing in this section shall affect the right of the department or any other enforcement agency to institute an administrative, civil, or criminal action against a generator that has made a false certification.

(e) Any plaintiff seeking damages pursuant to this section shall give written notice to the director upon filing an action pursuant to this section.

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.

CHAPTER 746

An act to add Section 62.5 to the Labor Code, relating to workers' compensation.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 62.5 is added to the Labor Code, to read:

62.5. (a) The Workers' Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for the administration of the workers' compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to Section 3702.5, and shall not be used for any other purpose.

(b) The fund shall consist of assessments made pursuant to this section. Costs of the program shall be shared on a proportional basis between the General Fund and employer assessments. The General Fund appropriation shall account for 80 percent, and employer assessments shall account for 20 percent, of the total costs of the program.

(c) Assessments shall be levied by the director upon all employers as defined in Section 3300. The total amount of the assessment shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment. The rules shall require the assessment to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the assessment to be paid by insured employers to be expressed as a percentage of premium. In no event shall the assessment paid by

insured employers be considered a premium for computation of a gross premium tax or agents' commission.

CHAPTER 747

An act to amend Sections 120325 and 120335 of the Health and Safety Code, relating to health.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 120325 of the Health and Safety Code is amended to read:

120325. In enacting Chapter 1 (commencing with Section 120325, but excluding Section 120380) and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1) Diphtheria.
(2) Hepatitis B.
(3) Haemophilus influenzae type b.
(4) Measles.
(5) Mumps.
(6) Pertussis (whooping cough).
(7) Poliomyelitis.
(8) Rubella.
(9) Tetanus.
(10) Varicella (chickenpox). This paragraph shall be operative only to the extent that funds for this purpose are appropriated in the annual Budget Act.
(11) Any other disease that is consistent with the most current 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, and deemed appropriate by the department.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or

guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e) Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

SEC. 2. 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) Varicella (chickenpox), effective July 1, 2001. Persons already admitted into California public or private schools at the kindergarten level or above before July 1, 2001, shall be exempt from the varicella immunization requirement for school entry. This paragraph shall be operative only to the extent that funds for this purpose are appropriated in the annual Budget Act.

The department may adopt emergency regulations to implement this paragraph including, but not limited to, requirements for documentation and immunization status reports, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this paragraph shall remain in effect for no more than 180 days.

(11) 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. 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.

CHAPTER 748

An act to add Sections 681, 1220.5, and 1288.3 to the Business and Professions Code, relating to biological specimens.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 681 is added to the Business and Professions Code, to read:

681. (a) Commencing July 1, 2000, every person licensed pursuant to this division who collects human biological specimens for clinical testing or examination, shall secure, or ensure that his or her employees, agents, or contractors secure, those specimens in a locked container when those specimens are placed in a public location outside of the custodial control of the licensee, or his or her employees, agents, or contractors.

(b) Containers used for human biological specimens put into use on or after January 1, 2001, shall be marked "Caution: Biohazardous Material - Please Do Not Touch or Handle," or words of similar meaning.

(c) This section shall not apply where the biological specimens have been placed in the mail in compliance with all applicable laws and regulations.

(d) The licensing board having jurisdiction of the licensee may impose appropriate sanctions for violations of this section, including, if otherwise authorized by the licensing act, the imposition of a fine not to exceed one thousand dollars ($1,000).

(e) As used in this section, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

SEC. 2. Section 1220.5 is added to the Business and Professions Code, to read:

1220.5. (a) The Department of Health Services shall develop, and provide to all licensed clinical laboratories, a form in triplicate to be used by employees, agents, and couriers of licensed clinical laboratories to give notice when a specimen storage container has been improperly secured pursuant to Section 681.

(b) The three copies of the triplicate form shall each contain instructions so that one copy is to be attached to the unlocked specimen storage container, one copy is mailed to the Department of Consumer Affairs to be forwarded to the appropriate licensing entity pursuant to Section 1288.3, and one copy is kept by the licensed clinical laboratory for its records.

(c) This form shall be provided to all licensed clinical laboratories on and after January 1, 2001.

SEC. 3. Section 1288.3 is added to the Business and Professions Code, to read:

1288.3. (a) If a clinical laboratory employee, agent, or courier retrieves biological specimens located in a public place outside of the custodial control of a licensee, or his or her employee, agent, or contractor, and those specimens are not secured in a locked container, the clinical laboratory employee, agent, or courier, utilizing the form provided by the State Department of Health Services pursuant to Section 1220.5, shall (1) notify the licensee by attaching the appropriate copy of the form to the unlocked storage container, and (2) mail the appropriate copy of the form to the Department of Consumer Affairs. The Department of Consumer Affairs shall forward all forms received to the appropriate licensing entity.

(b) This section shall not apply where the biological specimens have been received by mail in compliance with all applicable laws and regulations.

(c) For purposes of this section: (1) "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

(2) "Licensee" means a person licensed pursuant to this division 2 (commencing with Section 500), who collects human biological specimens for clinical testing or examination.

(d) A violation of this section is not subject to Section 1287.

(e) This section shall become operative on January 1, 2001. Nothing in this section shall be construed to require clinical laboratory employees, agents, or couriers to notify licensees or the Department of Consumer Affairs of an unsecured specimen if the State Department of Health Services has not provided the appropriate forms.

SEC. 4. Sections 1, 2, and 3 of this act shall become operative only if Assembly Bill 1558 of the 1999–2000 Regular Session is enacted and adds Section 2244 to the Business and Professions Code, in which event it shall become operative at the same time as Assembly Bill 1558.

CHAPTER 749

An act to amend Sections 2836.1, 2836.2, 3502.1, 4040, 4060, and 4174 of the Business and Professions Code, and to amend Sections 11026 and 11150 of the Health and Safety Code, relating to health care practitioners.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 2836.1 of the Business and Professions Code is amended to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and his or her supervising physician and surgeon under any of the following circumstances:

(1) When furnished or ordered incidental to the provision of family planning services.

(2) When furnished or ordered incidental to the provision of routine health care or prenatal care.

(3) When rendered to essentially healthy persons.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or his or her designee.

(c) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule III through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure. When Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing or ordering of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug

or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

(i) Nothing in this section, nor any other provision of law, shall be construed to authorize a nurse practitioner in solo practice to furnish drugs or devices, under any circumstances.

(j) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

SEC. 2. Section 2836.2 of the Business and Professions Code is amended to read:

2836.2. Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section 2831.1 to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

SEC. 3. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons approved by the board, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

(1) A supervising physician and surgeon who delegates authority to issue a drug order to a physician assistant may limit this authority by specifying the manner in which the physician assistant may issue delegated prescriptions.

(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. The drugs listed shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When issuing a drug order, the

physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order" for purposes of this section means an order for medication which is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription or order of the supervising physician, (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by physician assistants pursuant to authority granted by their supervising physicians, and (3) the signature of a physician assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(c) A drug order for any patient cared for by the physician assistant that is issued by the physician assistant shall either be based on the protocols described in subdivision (a) or shall be approved by the supervising physician before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order for a drug other than for a drug listed in the formulary without advance approval from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide or issue a drug order for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for the particular patient.

(3) Any drug order issued by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(d) A written drug order issued pursuant to subdivision (a), except a written drug order in a patient's medical record in a health facility or medical practice, shall contain the printed name, address, and phone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. Further, a written drug order for a controlled substance, except a written drug order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant. The requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances number of the physician assistant, and shall be

signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the supervising physician and surgeon's drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

SEC. 4. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the physician assistant or nurse practitioner who issues a drug order pursuant to Section 3512.1 or 2836.1.

(2) Issued by a physician, dentist, optometrist, podiatrist, or veterinarian, or, if a drug order is issued pursuant to Section 3502.1 or 2836.1, by a physician assistant or nurse practitioner licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name or names and address of the patient or patients in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription"

means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right that a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

SEC. 5. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a physician assistant pursuant to Section 3502.1 or a nurse practitioner pursuant to Section 2836.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, physician assistant, or nurse practitioner, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a nurse practitioner or a physician assistant to order his or her own stock of dangerous drugs and devices.

SEC. 6. Section 4174 of the Business and Professions Code is amended to read:

4174. Notwithstanding any other provision of law, a pharmacist may dispense drugs or devices upon the drug order of a nurse practitioner functioning pursuant to Section 2836.1 or a certified nurse midwife functioning pursuant to Section 2746.51, a drug order of a physician assistant functioning pursuant to Section 3502.1, or the order of a pharmacist acting under Section 4052.

SEC. 7. Section 11026 of the Health and Safety Code is amended to read:

11026. "Practitioner" means any of the following:

(a) A physician, dentist, veterinarian, podiatrist, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, or a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code.

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(c) A scientific investigator, or other person licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.

SEC. 8. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

SEC. 9. This act is intended solely to conform state law to the federal Controlled Substances Act, and nothing in this act is intended to increase the scope of practice of physician assistants or nurse practitioners.

CHAPTER 750

An act to add Section 11362.9 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. This act shall be known, and may be cited as, the Marijuana Research Act of 1999.

SEC. 2. The Legislature finds and declares all of the following:

(a) On November 5, 1996, the people of California, with more than six million votes, approved Proposition 215.

(b) There is public and scientific controversy regarding the medical efficacy and safety of marijuana.

(c) There is a need for objective scientific research regarding the efficacy and safety of marijuana as part of medical treatment.

SEC. 3. Section 11362.9 is added to the Health and Safety Code, to read:

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a three-year program, to be known as the California Marijuana Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana.

(b) The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.

(3) Proposals shall contain provisions for a patient registry.

(4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with the acquired immunodeficiency syndrome (AIDS) or the human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the

process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive

requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(e) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(f) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(g) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(h) The marijuana studies shall employ state-of-the-art research methodologies.

(i) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(j) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(k) (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.

(2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

(*l*) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(m) In order to maximize the scope and size of the marijuana studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.

(n) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A) The names and number of diseases or conditions under study.

(B) The number of patients enrolled in each study by disease.

(C) Any scientifically valid preliminary findings.

(o) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a

voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(p) No more than 10 percent of the total funds appropriated be used for all aspects of the administration of this section.

(q) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

CHAPTER 751

An act to amend Section 104187 of, and to add Sections 104181.5, 104182.5, 104182.7, and 104187.5 to, the Health and Safety Code, relating to cancer research.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 104181.5 is added to the Health and Safety Code, to read:

104181.5. The department, in awarding grants under this program, shall not encumber money allocated in any fiscal year other than the fiscal year in which the appropriation was made beginning with nonobligated 2000–01 fiscal year funds, subject to receiving multiyear spending authority for those funds.

SEC. 2. Section 104182.5 is added to the Health and Safety Code, to read:

104182.5. Not less than a majority of the appointed members of the Cancer Research Council shall be present and voting for approval and selection of research priorities under Section 104185 and ultimate recommendations to the State Department of Health Services regarding grantmaking decisions.

SEC. 3. Section 104182.7 is added to the Health and Safety Code, to read:

104182.7. (a) The department shall grant a minimum of 65 percent of any fiscal year appropriation that is awarded for research to cancer research proposals directly researching gender-specific cancers.

(b) Any amount of funding for gender-specific cancer research for any fiscal year, to the extent the amount is below the threshold minimum allocation for any fiscal year established pursuant to subdivision (a), shall be carried forward, upon approval of the council for the following fiscal year or years for gender-specific cancer research, to the extent allowed by the limitations on the

appropriated funds subject to that allocation. Funding allocations carried over from any fiscal year under this subdivision shall be in addition to the funding allocation for gender-specific cancer research for fiscal years to which the additional allocation is transferred pursuant to this subdivision.

SEC. 4. Section 104187 of the Health and Safety Code is amended to read:

104187. The State Department of Health Services shall do all of the following:

(a) Provide overall coordination of the program.

(b) Provide staff assistance to the program and council.

(c) Develop administrative procedures relative to the solicitation, review, and awarding of grants to ensure an impartial, high-quality peer review system.

(d) Recruit and supervise research review panels. The membership of these panels shall vary depending on the subject matter of proposals and review requirements, and shall draw on the most qualified individuals. The work of the review panels shall be administered pursuant to policies and procedures established for the implementation of the program. In order to avoid conflicts of interest and to ensure access to qualified reviewers, the department may utilize reviewers not only from California but also from outside the state. When serving on review panels, institutions, corporations, or individuals who have submitted grant applications for funding by this program shall be governed by conflict-of-interest provisions consistent with Section 52h.5 of Title 42 of the Code of Federal Regulations governing scientific review of research grant applications, and any applicable conflict-of-interest provisions in state law. Any appointed member of the Cancer Research Council shall be ineligible to apply for or receive funding for cancer research from the Cancer Research Program during his or her term of service on the council, and for one cycle immediately following his or her term of service on the council, if the council member helped plan that subsequent cycle.

(e) Provide for periodic program evaluation to ensure that research funded is consistent with program goals.

(f) Disseminate grant moneys within 60 days of notification of the award and maintain a system of financial reporting and accountability. Grant moneys disseminated pursuant to this subdivision shall be available for expenditure for a period of three years beginning with funds appropriated in the 1998–99 fiscal year.

(g) Provide for the systematic dissemination of research results to the public and the health care community, including work to produce public service advertising on screening and research results, and provide for a mechanism to disseminate the most current research findings in the areas of cause and prevention, cure, diagnosis, and treatment of cancer, in order that these findings may

be applied to the planning, implementation, and evaluation of any cancer-related programs of the department.

(h) Develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other applications wherever appropriate and consistent with state and federal law.

(i) Transmit, on or before December 31, 1998, and annually on or before each December 31 thereafter, a report to the Legislature on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, all of the following information:

(1) The number and dollar amounts of research grants, including the amount allocated to indirect costs.

(2) The subject of research grants.

(3) The relationship between federal and state funding for cancer research.

(4) The relationship between each project and the overall strategy of the research program.

(5) A summary of research findings, including discussion of promising new areas.

(6) The corporations, institutions, and campuses receiving grant awards.

SEC. 5. Section 104187.5 is added to the Health and Safety Code, to read:

104187.5. Peer review panels, in reviewing proposals for cancer research, may recommend the awarding of a grant to a cancer research proposal on the condition that a single adjustment or correction be made before the receipt of funding under this article.

CHAPTER 752

An act relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. (a) It is the intent of the Legislature in enacting this section to provide for the planning of the expansion of the Kenneth Hahn State Recreation Area, and the development of related public facilities in the Baldwin Hills area of Los Angeles County.

(b) The Secretary of Resources shall establish an advisory committee to assist in the development of a master plan for the expansion and development project described in subdivision (a). The advisory committee shall consist of representatives of the

communities served by the project, local governments of adjacent areas, and other interested state entities.

(c) Notwithstanding Section 7550.5 of the Government Code, the Secretary of Resources, in conjunction with the Director of Parks and Recreation, shall, not later than January 1, 2002, prepare and submit to the Legislature a master plan for the expansion and development of the Kenneth Hahn State Recreation Area that is designed to accomplish all of the following goals:

(1) Increase active recreation opportunities for underserved communities.

(2) Create a comprehensive trail system.

(3) Provide for public access and entry ways.

(4) Protect and restore natural habitat.

(5) Protect critical viewsheds.

(6) Protect and improve urban water quality.

(7) Emphasize connections between existing parks, trails, and urban streams.

(8) Restore industrial lands to park and open-space purposes.

(9) Protect watersheds connecting to Santa Monica Bay.

SEC. 2. Notwithstanding any other provision of law, of the amount appropriated in Schedule (1.25) of Item 3790-302-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50 of the Statutes of 1999) for the Kenneth Hahn State Recreation Area, up to five hundred thousand dollars ($500,000) may be expended at the direction of the Secretary of Resources for the development of the master plan required pursuant to Section 1 of this act.

CHAPTER 753

An act to amend Section 769 of the Insurance Code, relating to insurance.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 769 of the Insurance Code is amended to read:

769. (a) After a written agency or written brokerage contract, where the broker-agent represents the insurer, has been in effect for at least one year, it shall not be terminated or amended by an insurer, except by mutual agreement, unless 120 days' advance written notice has been given by the insurer to the broker-agent.

(b) The advance notice required by this section does not apply if the broker-agent has done any of the following:

(1) Exceeded his or her binding authority under the agency or brokerage contract.

(2) Violated the written underwriting rules or regulations of the insurer, a copy of which has been provided to the broker-agent, which misleads the insurer concerning the nature or extent of a risk.

(3) Failed to comply with the fiduciary requirements set forth in Section 1733, 1734, 1734.5, or 1735.

(4) Failed, either within 10 days after written notice upon failure to remit funds within the time limits set forth in the agency or brokerage contract or within 30 days after written demand if the agency or brokerage contract does not set forth time limits, to remit funds due and owing to the insurer.

(5) Had his or her license suspended or revoked by the commissioner.

(6) Engaged in fraudulent acts affecting his or her relationship with the insurer or its insureds.

(7) Transferred ownership, control, or servicing of policies written with the insurer to another insurer, or to an entity directly or indirectly owned or controlled by an insurer or to an entity directly or indirectly owning or controlling an insurer.

(c) When a broker-agent's contract is terminated as provided by this section, the rights, duties, and obligations set forth in the terminated contract of the broker-agent having property rights in renewals shall continue solely with respect to policies then in force or renewed as provided by this section until those policies are canceled in accordance with law, placed by the broker-agent with another insurer, or have expired. The broker-agent's authority during the period following notice of termination of his or her contract shall be governed by the written contract between the broker-agent and the insurer, except that, after the receipt of the notice of termination, the broker-agent shall not bind new risks on behalf of the insurer, renew policies except as permitted by this section, or otherwise increase the obligation of the insurer, without the express approval of the insurer or in accordance with the terms of an existing policy.

(d) If a terminated broker-agent is unable, after making a good faith effort, to place existing policies with another insurer, the insurer then insuring the risk shall, at the broker-agent's request, renew any insurance contract written by the broker-agent for the insurer for one policy term or a period of one year, whichever is shorter. Where the insurer is prohibited by subdivision (c) of Section 1861.03 from nonrenewing the risk, the insurer shall continue to compensate the broker-agent for servicing the policies written by the insurer prior to termination of the broker-agent relationship until the insurer can cancel or nonrenew the policyholder pursuant to statute or the broker-agent moves the policyholder to another insurer but, in no event, shall the insurer's obligation to compensate the broker-agent exceed three years after termination of the broker-agent's contract,

unless otherwise provided by terms of the contract. The renewal shall be at the insurer's premium rates in effect on the date of renewal and at prevailing commission rates for that class or line of business in effect on the date of renewal for broker-agents whose contracts are not terminated. An insurer shall not be precluded from paying a commission to a terminated broker-agent pursuant to this section at a level the insurer is paying at the time it provides notice to the broker-agent that it is terminating the contract or as set forth in the written agreement, providing that there has not been any unilateral change in the commission paid by the insurer within 180 days of the notice of the broker-agent's termination. An insurer shall be allowed to subtract from the three-year time period provided to a broker-agent upon termination, the time period that elapsed during which the broker-agent is involved in a rehabilitation program with an insurer.

(e) (1) Notwithstanding any other provision of this section, no insurer shall be required to renew any policy of insurance or compensate a terminated broker-agent pursuant to the provisions of this section if any of the following apply:

(A) The broker-agent is no longer the broker-agent of record with respect to the policy, or the broker-agent has transferred ownership, control, or servicing of policies written with the insurer to another insurer or an entity owned or controlled, directly or indirectly, by another insurer or to an entity owning or controlling, directly or indirectly, another insurer.

(B) The broker-agent has died or has become unable to conduct his or her business affairs.

(C) The broker-agent has failed, either within 10 days after written demand upon failure to remit funds within the time limits set forth in the agency or brokerage contract or within 30 days after written demand if the agency or brokerage contract does not set forth time limits, to remit funds due and owing to the insurer.

(D) The broker-agent has failed to follow the written instructions of the insurer, a copy of which has been provided to the broker-agent, generally applicable to the renewal of policies.

(E) The commissioner has determined that the renewal of the policy would threaten the solvency of the insurer.

(F) The insurer suffers the withdrawal of reinsurance covering all or part of the risk and this withdrawal of reinsurance is likely to threaten, in the opinion of the commissioner, the financial integrity or solvency of the insurer.

(G) The insurer has withdrawn from the State of California in accordance with Sections 1070 to 1076, inclusive.

(2) Nothing in this subdivision shall be construed to authorize the nonrenewal of a good driver discount policy as defined and issued pursuant to the provisions of Sections 1861.02, 1861.025, and 1861.03.

(f) This section shall not apply to a life insurer, an agent of a life insurer, a disability insurer, a nonprofit hospital service plan, an agent

of a disability insurer or nonprofit hospital service plan, an agent who is the employee of an insurer, or to an agent who, by contractual agreement either represents only one insurer or group of affiliated insurers or who is required by contract to submit risks to a specified insurer or group of affiliated insurers prior to submitting them to other insurers.

(g) This section does not apply to any management contract of a managing general agent as defined in Section 1735, but it shall continue to apply to any agency or brokerage contract of a managing general agent or any portion of a management contract authorizing a managing general agent to act in his or her capacity as an insurance agent as defined in Section 1621, or an insurance broker as defined in Section 1623.

(h) (1) For purposes of this section, a "rehabilitation program" shall include, but not be limited to, all of the following:

(A) Written communication to the broker-agent outlining the fact that the broker-agent is on rehabilitation status.

(B) Identification by the company of problem areas.

(C) Mutual agreement on performance objectives and specific dates for accomplishment.

(D) Length of rehabilitation plan to be negotiated, but not less than six months.

(2) For purposes of subdivision (d), a good faith effort is satisfied by a terminated broker-agent who markets his or her book of business to other insurers that underwrite the same or similar lines of insurance, consistent with the interests of the policyholders. An insurer who terminates a broker-agent shall be entitled to be informed of the marketing activity and to obtain copies of any correspondence reflecting these efforts. However, nothing in this section shall be interpreted to allow the insurer to require the terminated broker-agent to obtain written rejections of an agency appointment from other insurers, or written rejections from individual policyholders.

(i) An insurer that takes action, other than terminating the written agency or brokerage contract, solely for the purpose of avoiding the provisions of subdivision (a) shall be required to extend existing policies pursuant to the applicable provision of subdivision (d) if both of the following apply:

(1) The action is designed to impact only a specific agency or agencies and the business produced by them.

(2) The action results in the cancellation or nonrenewal of substantially all of the agency's or agencies' business.

(j) This section shall apply to written agency contracts becoming effective on or after January 1, 1987. The amendments to this section by the act adding this sentence also apply to any written agency contract amended after January 1, 1988.

(k) The amendments to this section made by the act adding this subdivision shall apply to any written brokerage contract becoming effective, or amended, on or after January 1, 1996.

CHAPTER 754

An act to amend Section 18993.9 of the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 18993.9 of the Welfare and Institutions Code is amended to read:

18993.9. This chapter shall remain operative until July 1, 2000, and shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 2001, deletes or extends that date.

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

In order to ensure that community challenge grant provisions may be implemented at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 755

An act to amend Sections 106875, 106876, 106880, 106885, 106890, 106895, 106900, 106910, 116275, and 116555 of, to amend the heading of Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of, to add Sections 106892, 106896, and 106897 to, to repeal Section 106905 of, and to repeal Chapter 6 (commencing with Section 116900) of Part 12 of Division 104 of, the Health and Safety Code, relating to water.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The heading of Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code is amended to read:

Article 3. Operator Certification Program: Water Treatment Plants and Water Distribution Systems

SEC. 2. Section 106875 of the Health and Safety Code is amended to read:

106875. (a) The department shall examine and certify persons as to their qualifications to supervise or operate water treatment plants. The certification shall indicate the classification of water treatment plant that the person is qualified to supervise or operate.

(b) The department shall examine and certify persons as to their qualifications to supervise or operate a water distribution system. The certification shall indicate the classification of distribution system that the person is qualified to supervise or operate.

SEC. 3. Section 106876 of the Health and Safety Code is amended to read:

106876. (a) The department may suspend, revoke, or refuse to grant or renew any water treatment operator certificate or water treatment operator-in-training certificate to operate or supervise the operation of a water treatment plant or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

(1) The submission of false or misleading information on an application for a certificate or engaging in dishonest conduct during an examination.

(2) The use of fraud or deception in the course of operating or supervising the operation of a water treatment plant or a water recycling treatment plant.

(3) The failure to use reasonable care or judgment in the operation or supervision of the operation of a water treatment plant or a water recycling treatment plant.

(4) The inability to perform operating duties properly in a water treatment plant or a water recycling treatment plant.

(5) The failure to meet all requirements for certificate renewal.

(6) The conduct of willful or negligent acts that cause or allow the violation of the Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code) or the regulations and standards adopted pursuant to that act.

(7) Willfully or negligently violating or causing or allowing the violation of waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) while operating a water recycling treatment plant.

(b) The department may suspend, revoke, or refuse to grant or renew any water distribution operator certificate to operate or supervise the operation of a water distribution system or may place on probation or reprimand the certificate holder upon any reasonable grounds, including, but not limited to, any of the following:

(1) The submission of false or misleading information on an application for a certificate or engaging in dishonest conduct during an examination.

(2) The use of fraud or deception in the course of operating or supervising the operation of a water distribution system.

(3) The failure to use reasonable care of judgment in the operation or supervision of the operation of a water distribution system.

(4) The inability to perform operating duties properly in a water distribution system.

(5) The failure to meet all requirements for certificate renewal.

(6) The conduct of willful or negligent acts that cause or allow the violation of the federal Safe Drinking Water Act (Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code) or the regulations and standards adopted pursuant to that act.

(c) Prior to revocation of a valid operator certificate, the department shall provide the certificate holder with an opportunity for a hearing before the department.

(d) For purposes of this section, "water recycling treatment plant" means a treatment plant that receives and further treats secondary and/or tertiary effluent from a wastewater treatment plant.

SEC. 4. Section 106880 of the Health and Safety Code is amended to read:

106880. The state department shall hold at least one examination each year for the purpose of examining candidates for certification.

SEC. 5. Section 106885 of the Health and Safety Code is amended to read:

106885. (a) All persons who operate or supervise the operation of water treatment plants shall possess a valid and current water treatment operator certificate or water treatment operator-in-training certificate of appropriate grade in accordance with the regulations referred to in Section 106910.

(b) All persons who are in responsible charge of the water distribution system of a community water system or a nontransient noncommunity water system shall possess a valid and current water distribution operator certificate of the appropriate grade in accordance with the regulations referred to in Section 106910.

SEC. 6. Section 106890 of the Health and Safety Code is amended to read:

106890. It is the intent of the Legislature that the program authorized pursuant to this article be entirely self-supporting, and for

this purpose the department is authorized to establish fee schedules for the issuance, replacement, reinstatement, continuing education, and renewal of certificates that shall provide revenues that shall not exceed the amount necessary, but shall be sufficient, to recover all costs incurred in the administration of this article.

SEC. 7. Section 106892 is added to the Health and Safety Code, to read:

106892. There is in the State Treasury the Drinking Water Operator Certification Special Account. Fees collected pursuant to Section 106890 shall be deposited in the account created by this section.

SEC. 8. Section 106895 of the Health and Safety Code is amended to read:

106895. (a) A person employed as a water distribution operator, as defined by Section 116275, who does not hold a certificate pursuant to Section 106885, may be issued an appropriate certificate provided that the water system with which the operator is employed has applied for the certificate within one year after the adoption of the regulations implementing this section.

(b) A certificate issued pursuant to subdivision (a) shall be effective only at the site at which the operator was employed. The operator shall meet all certification requirements and hold a valid certificate pursuant to Section 106885 in order to operate another system.

(c) If the classification of the distribution system changes to a higher level, the certificate of the water distribution operator that was issued pursuant to subdivision (a) for that water distribution system is no longer valid.

(d) Any water distribution operator who is certified under subdivision (a) shall meet all of the requirements for renewal, including necessary training and the payment of fees.

SEC. 9. Section 106896 is added to the Health and Safety Code, to read:

106896. The department shall evaluate the water distribution operator certification program of the California-Nevada Section of the American Water Works Association (CNAWWA) and issue an appropriate water distribution system operator certificate for those certified operators that have satisfied the provisions of this article and any regulations promulgated under this chapter.

SEC. 10. Section 106897 is added to the Health and Safety Code, to read:

106897. On or after the effective date of regulations implementing this article, certificates issued by certification programs of other states shall be recognized as valid and sufficient under this article if the department determines that the program of the other state is consistent with this article and the regulations promulgated under this article.

SEC. 11. Section 106900 of the Health and Safety Code is amended to read:

106900. The department may approve courses of instruction provided by educational institutions, professional associations, public agencies, or private agencies for purposes of qualifying persons for initial certification, certification renewal, and recertification as a water treatment operator, water treatment operator-in-training, or water distribution operator.

SEC. 12. Section 106905 of the Health and Safety Code is repealed.

SEC. 13. Section 106910 of the Health and Safety Code is amended to read:

106910. The department may adopt rules, regulations, and certification standards necessary to carry out the provisions of this article, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The rules, regulations, and standards shall include, but not be limited to, the following:

(a) The classification of treatment plants taking into consideration the plant size, character of the water being treated, type and degree of treatment, complexity of operation, and other physical conditions affecting the operation of the water treatment plant.

(b) The classification of distribution systems of community water systems and nontransient noncommunity water systems taking into consideration the complexity and size of the system.

(c) Criteria and standards establishing the level of skill, knowledge, education, and experience necessary to operate successfully or to supervise successfully the operation of specific classes of water treatment plants so as to protect public health.

(d) Criteria and standards establishing the level of skill, knowledge, and experience necessary to operate successfully or to supervise successfully the operation of specific classes of water distribution systems so as to protect the public health.

(e) Criteria and standards for operator certification renewal including continuing education requirements.

(f) Criteria and standards for recertification of an operator when the operator's certificate has lapsed.

(g) Criteria and standards for the availability of designated water treatment operators for each operating shift.

SEC. 14. Section 116275 of the Health and Safety Code is amended to read:

116275. As used in this chapter:

(a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(b) "Department" means the State Department of Health Services.

(c) "Primary drinking water standards" means:

(1) Maximum levels of contaminants that, in the judgment of the department, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the department in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the department that pertain to maximum contaminant levels.

(d) "Secondary drinking water standards" means standards that specify maximum contaminant levels that, in the judgment of the department, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to assure a supply of pure, wholesome, and potable water.

(e) "Human consumption" means the use of water for drinking, bathing or showering, hand washing, or oral hygiene.

(f) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.

(g) "Person" means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(h) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system which are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(j) "Noncommunity water system" means a public water system that is not a community water system.

(k) "Nontransient noncommunity water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

(*l*) "Local health officer" means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

(m) "Significant rise in the bacterial count of water" means a rise in the bacterial count of water that the department determines, by regulation, represents an immediate danger to the health of water users.

(n) "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

(o) "Transient noncommunity water system" means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

(p) "User" means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.

(q) "Waterworks standards" means regulations adopted by the department that take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.

(r) "Local primacy agency" means any local health officer that has applied for and received primacy delegation from the department pursuant to Section 116330.

(s) "Service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

(1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.

(2) The department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

(3) The department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of

protection provided by the applicable primary drinking water regulations.

(t) "Resident" means a person who physically occupies, whether by ownership, rental, lease or other means, the same dwelling for at least 60 days of the year.

(u) "Water treatment operator" means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.

(v) "Water treatment operator-in-training" means a person who has applied for and passed the written examination given by the department but does not yet meet the experience requirements for a specific water treatment operator grade pursuant to Section 106875.

(w) "Water distribution operator" means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.

(x) "Water treatment plant" means a group or assemblage of structures, equipment, and processes that treat, blend, or condition the water supply of a public water system for the purpose of meeting primary drinking water standards.

(y) "Water distribution system" means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.

SEC. 15. Section 116555 of the Health and Safety Code is amended to read:

116555. (a) Any person who owns a public water system shall ensure that the system does all of the following:

(1) Complies with primary and secondary drinking water standards.

(2) Will not be subject to backflow under normal operating conditions.

(3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

(4) Employs or utilizes only water treatment operators or water treatment operators-in-training that have been certified by the department at the appropriate grade.

(5) Complies with the operator certification program established pursuant to Chapter 4 (commencing with Section 106875).

(b) Any person who owns a community water system or a nontransient noncommunity water system shall do all of the following:

(1) Employ or utilize only water distribution system operators who have been certified by the department at the appropriate grade for positions in responsible charge of the distribution system.

(2) Place the direct supervision of the water system, including water treatment plants, water distribution systems, or both under the responsible charge of an operator or operators holding a valid certification equal to or greater than the classification of the treatment plant and the distribution system.

SEC. 16. Chapter 6 (commencing with Section 116900) of Part 12 of Division 104 of the Health and Safety Code is repealed.

CHAPTER 756

An act to amend Sections 44508, 44535, and 44559.1 of, and to add Section 44559.8 to, the Health and Safety Code, relating to pollution control financing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 44508 of the Health and Safety Code is amended to read:

44508. (a) "Project" and "pollution control facility," respectively, mean any land, building, improvement thereto, work, property or structure, real or personal, providing or designed to provide for the control, reduction, abatement, elimination, remediation, or prevention of pollution, including, but not limited to, hydrostatic control facilities, dust collectors, smoke bags, settling ponds, filtration plants, sewage disposal facilities, garbage disposal facilities, recycling facilities, dumps, filling grounds, chlorination ponds, treatment works, water utility property, soil excavation and removal, construction, operation, and maintenance of systems that extract, contain, or treat groundwater, soil vapor, gas, or leachate, and all other structures, systems, or facilities now or hereafter developed or useful in the control of pollution of any type or character, including any structure, equipment, or other facilities for the purpose of the purchase, production, distribution, or sale of water, or of reducing, treating, neutralizing, or cooling the temperature of any liquid, gaseous, or solid or hazardous waste substance or discharge resulting from the process of manufacture, industry, or commerce, or from the development, processing, or recovery of any natural resource or the generation of electricity, steam heat, or manufactured gas, together with the recovery, treatment, neutralizing, stabilizing, or cooling equipment, facilities, plants, or structures necessary to reduce, control, remediate, or eliminate pollution, and any and all facilities which may hereafter be developed through science, study, and investigation to aid and assist in the control of pollution or the removal or treatment of any substance that might otherwise cause or contribute to pollution, and including the use of renewable energy resource devices or the development of an energy conservation program where that action is designed to reduce onsite emissions or pollutants.

(b) "Project" also means payment by a party for the party's share of the cost of remediation of pollution at a contaminated site for which the party is a de minimis or de micromis responsible party, and the party has been accorded that status in an expedited final settlement or other settlement with the United States Environmental Protection Agency, reached in accordance with subsection (g) of Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and the regulations and guidance issued by the United States Environmental Protection Agency pursuant to that act.

SEC. 2. Section 44535 of the Health and Safety Code is amended to read:

44535. (a) The authority may separately approve financing for projects, the purpose of which is to prevent, remediate, or reduce environmental pollution resulting from the disposal of solid, hazardous, or liquid waste.

(b) The following projects shall be considered for financing:

(1) Projects utilizing recognized resource recovery or energy conversion processes.

(2) Projects utilizing new technologies or processes for resource recovery or energy conversion.

(3) Projects utilizing technologies designed to reduce the level of pollutants found in water.

(4) Recycled water facilities.

(5) Water main replacements.

(6) Water filtration facilities.

(7) Projects for the disposal of agricultural wastes.

(8) Soil excavation and removal, and construction, operation, and maintenance of systems that extract, contain, or treat groundwater, soil vapor, gas, or leachate.

(9) Other projects for the reduction or remediation of environmental pollution resulting from the disposal of solid, hazardous, or liquid waste, including, but not limited to, payment of the cost to remediate environmental pollution by a party that is a de minimis responsible party, in accordance with the standards for an expedited final settlement specified in subdivision (g) of Section 9622 of Title 42 of the United States Code, or a de micromis responsible party, under the regulations adopted by the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(c) The projects specified in subdivision (b) may include elements that provide for new refuse removal vehicles, transfer stations, resource recovery or energy conversion plants, source separation, or any solid or liquid waste disposal facilities involved in resource recovery systems. "Solid, hazardous, or liquid waste disposal facilities" means any property, or portion thereof, used for the

collection, storage, treatment, utilization, processing, or final disposal of solid, hazardous, or liquid waste in resource recovery systems.

SEC. 3. Section 44559.1 of the Health and Safety Code is amended to read:

44559.1. As used in this article, unless the context requires otherwise:

(a) "Authority" means the California Pollution Control Financing Authority.

(b) "California Capital Access Fund" means a fund created within the authority to be used for purposes of the program.

(c) "Executive director" means the Executive Director of the California Pollution Control Financing Authority.

(d) "Financial institution" means a federal or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.

(e) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purpose of the following:

(1) Depositing all required fees paid by the participating financial institution and the qualified business.

(2) Depositing contributions made by the state and, if applicable, the federal government or other sources.

(3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) "Participating financial institution" means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following:

(1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) "Program" means the Capital Access Loan Program created pursuant to this article.

(i) "Qualified business" means a small business concern that meets both of the following criteria:

(1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state.

(2) It has its primary business location within the boundaries of the state.

(j) (1) "Qualified loan" means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.

(2) "Qualified loan" does not include any of the following:

(A) A loan for the construction or purchase of residential housing.

(B) A loan to finance passive real estate ownership.

(C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased.

(D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) "Severely affected community" means any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(*l*) "Small Business Assistance Fund" means a fund created within the authority that may only be used to pay the authority's contribution to a loss reserve account for a qualified small business that has operations that affect the environment.

(m) "Small business concern" has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.

SEC. 4. Section 44559.8 is added to the Health and Safety Code, to read:

44559.8. Notwithstanding this article, the authority may facilitate the development of a secondary market for a loan enrolled in the capital access loan program by providing security for that loan, thereby increasing participation in the program by financial

institutions and improving access to capital for small businesses. For purposes of this section, the actions that the authority may take include, but are not necessarily limited to, assigning all, or a portion of, any loss reserve account to any other entity in connection with providing security for a loan, including a trustee of a securitization trust, transferring an enrolled loan from a participating financial institution to a securitization trust, and assisting underwriters in marketing a loan to the secondary market.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the California Pollution Control Financing Authority to issue revenue bonds on behalf of certain responsible parties, before their federal obligations become due, thereby facilitating response actions to hazardous substance releases as soon as possible, and to increase access to capital for small businesses for financing pollution control facilities, thereby protecting the environment and furthering public health and safety as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 757

An act to add Section 14105.26 to the Welfare and Institutions Code, relating to health services.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 14105.26 is added to the Welfare and Institutions Code, to read:

14105.26. (a) Each eligible facility, as described in paragraph 2 of subdivision (b), may, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, receive supplemental Medi-Cal reimbursement to the extent provided in this section.

(b) (1) Projects eligible for supplemental reimbursement shall include any new capital projects for which final plans have been submitted to the appropriate review agency after January 1, 2000, and before July 1, 2001. For purposes of this section, "capital project" means the construction, expansion, replacement, remodeling, or renovation of an eligible facility, including buildings and fixed equipment. A "capital project" does not include the provision of furnishings or of equipment that is not fixed equipment.

(2) A facility shall be eligible only if the submitting entity had all of the following additional characteristics during the 1998 calendar year:

(A) Provided services to Medi-Cal beneficiaries.

(B) Was a distinct part of an acute care hospital providing skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. For the purposes of this section, "acute care hospital" means the facilities defined in subdivisions (a) or (b), or both, of Section 1250 of the Health and Safety Code.

(C) Had not less than 300 licensed skilled nursing beds.

(D) Had an average skilled nursing Medi-Cal patient census of not less than 80 percent of the total skilled nursing patient days.

(E) Was owned by a county or city and county.

(c) (1) An eligible facility seeking to qualify for supplemental reimbursement shall submit documentation to the department regarding debt service on revenue bonds or other financing instruments used for financing the capital project.

(2) The department shall confirm in writing project eligibility under this section.

(d) (1) Capital projects receiving funding shall include only the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems, fire and life safety, seismic, or other related regulatory standards.

(2) Capital projects receiving funding may expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) Supplemental reimbursement shall only be made for capital projects, or for that portion of capital projects that provide skilled nursing services, and that are available and accessible to patients eligible for services under this chapter.

(e) An eligible facility's supplemental reimbursement for a capital project qualifying pursuant to this section shall be calculated and paid as follows:

(1) For any fiscal year for which the facility is eligible to receive supplemental reimbursement, the facility shall report to the department the amount of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(2) For each fiscal year in which an eligible facility requests reimbursement, the department shall establish the ratio of skilled nursing Medi-Cal days of care provided by the eligible facility to total skilled nursing patient days of care provided by the eligible facility. The ratio shall be established using data obtained from audits performed by the department, and shall be applied to the

corresponding fiscal year of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(3) The amount of debt service that will be submitted to the federal Health Care Financing Administration for the purpose of claiming reimbursement for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2).

(4) The supplemental reimbursement to an eligible facility shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (j).

(5) In no instance shall the total amount of supplemental reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service for the capital project over the life of the loan, revenue bond, or other financing mechanism.

(6) A facility qualifying for and receiving supplemental reimbursement pursuant to this section shall continue to receive reimbursement until the qualifying loan, revenue bond, or other financing mechanism is paid off, and as long as the facility meets the requirements of paragraph (3) of subdivision (d).

(7) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on skilled nursing services provided to Medi-Cal patients at the eligible facility, either on a per diem basis, a per discharge basis, or any other federally permissible basis. The department shall seek approval from the federal Health Care Financing Administration for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

(8) The supplemental reimbursement provided by this section shall not commence prior to the date upon which the hospital submits to the department a copy of the certificate of occupancy for the capital project.

(f) (1) It is the Legislature's intent in enacting this section to provide a funding source for a portion of the construction costs of eligible facilities without any expenditure from the state General Fund.

(2) The state share of the amount of the debt service submitted to the federal Health Care Financing Administration for purposes of supplemental reimbursement shall be paid with county-only funds and certified to the state as provided in subdivision (g). Any amount of the costs of the capital project that are not reimbursed by federal funds shall be borne solely by the eligible facility.

(3) Prior to receiving any funding through this section, an eligible facility shall demonstrate its ability to cover all of the anticipated costs of construction, including those not reimbursed through federal funding.

(g) The county or city and county, on behalf of any eligible facility, shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for the capital project are eligible for federal financial participation.

(2) Provide evidence supporting the certification as specified by the department.

(3) Submit data, as specified by the department, to determine the appropriate amounts to claim as expenditures qualifying for financial participation.

(4) Keep, maintain, and have readily retrievable, such records as specified by the department in order to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Health Care Financing Administration.

(h) The department may require that any county or city and county seeking supplemental reimbursement under this section enter into an interagency agreement with the department for the purpose of implementing this section.

(i) All payments received by an eligible facility pursuant to this section shall be placed in a special account, the funds of which shall be used exclusively for the payment of expenses related to the eligible capital project.

(j) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall become inoperative.

(2) The department shall submit claims for federal financial participation for the expenditures for debt service that are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(k) Supplemental reimbursement paid under this section shall not duplicate any reimbursement received by an eligible facility pursuant to this chapter for construction costs that would otherwise be eligible for reimbursement under this section. In no event shall the total Medi-Cal reimbursement pursuant to this chapter to a facility eligible under this section be less than what would have been paid had this section not existed.

(*l*) In the event there is a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator

of the federal Health Care Financing Administration that the supplemental reimbursement provided in this section must be made to any facility not described therein, this section shall become immediately inoperative.

(m) Any and all funds expended pursuant to this section shall be subject to review and audit by the department.

CHAPTER 758

An act to amend Section 6364 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The California Constitution exempts food products for human consumption from sales or use tax.

(b) California's agricultural food production and processing industries are experiencing significant adversities caused by extreme freezing temperatures and extreme weather patterns, as El Niño and La Niña.

(c) Nineteen other states exempt food containers from sales tax, placing California growers and food processors at a competitive disadvantage.

(d) Food containers originating from foreign countries are exempt from sales tax, placing California growers and food processors at a competitive disadvantage.

(e) Much of California's food production is seasonal.

(f) Advances in food container technology and business practices have made food containers more recyclable.

(g) By encouraging the use of reusable food containers, the environment will benefit through increased use of recyclable food containers and waste reduction.

(h) In order to ensure that food containers are clearly treated the same as food for sales tax purposes, during the upcoming spring and summer seasons, it is necessary that this revision be made in the Sales and Use Tax Law.

SEC. 2. Section 6364 of the Revenue and Taxation Code is amended to read:

6364. There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of and the storage, use, or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(d) Containers, when sold or leased without the contents to persons who place food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and whether the food products are remanufactured or repackaged prior to sale.

(e) For purposes of this section, "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 759

An act to add Section 5029.5 to the Public Resources Code, relating to historical resources.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 5029.5 is added to the Public Resources Code, to read:

5029.5. (a) Notwithstanding any other provision of law, fifty percent (50%) of the revenue collected by the Department of Transportation, in each fiscal year, from rental receipts from a federally designated historic property, or from property listed as a state historical resource pursuant to Section 5024, that is owned by the Department of Transportation and located in a freeway right-of-way corridor, less any amount transmitted in lieu of property tax to a city,

county, or city and county, as required by law, shall be deposited in the Historic Property Maintenance Fund, which is hereby created in the Treasury.

(b) Moneys in the fund may be expended by the Department of Transportation, upon appropriation by the Legislature, to pay for costs associated with the maintenance and operation of the historic property described in subdivision (a). Any moneys deposited into the fund are in addition to, and are not intended to supplant or replace, any existing funds that are currently available to any state agency for the operation and maintenance of historical resources.

CHAPTER 760

An act to add Section 1936.5 to the Civil Code, relating to rental vehicles.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 1936.5 is added to the Civil Code, to read:

1936.5. (a) Notwithstanding subdivision (m) of Section 1936, a rental car company conducting business with customers that use either the consolidated rental car facility or the common use transportation system, or both, at the San Jose International Airport shall surcharge a fee to its customers that meets all of the following criteria:

(1) The fee is imposed by the City of San Jose, by duly adopted ordinance or resolution, and is required to be remitted to the City of San Jose by the rental car company for the purpose of financing, designing, and constructing one or both of the following:

(A) Consolidated rental car facilities.

(B) An airport-mandated common use transportation system for the movement of passengers between the terminals and the consolidated on-airport rental car facilities.

(2) The fee imposed on customers of on-airport rental car companies is proportionate to the costs of the consolidated rental car facilities and the common use transportation system. The fee imposed on customers that are picked up or delivered to the airport by off-airport rental car companies is proportionate to the costs of the common use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers.

(3) The fee is imposed on a per contract basis and does not exceed ten dollars and fifteen cents ($10.15).

(4) Collection of the fee commences when the consolidated rental car facility is constructed, occupied, and opened for service.

Authority to collect the fee shall expire no later than 20 years from the date the fee is first collected. Any fees so collected that are not used for design and construction shall be applied to retire the debt on the consolidated rental car facilities and common use transportation system.

(5) The fee collected for this purpose is debt owed to the airport by the collecting party. The debt is due and payable to the airport, monthly, quarterly, or at any other interval the airport may establish to facilitate collection and insure payment.

(6) The fee is a user fee, not a tax, and the fee is not related to property under Article XIII D of the California Constitution.

(7) Revenues collected from the fees are applied in accordance with the terms of any resolutions, indentures, or other financing documents applicable to the provision of facilities and payments of expenses and do not exceed the reasonable costs of financing, designing, and constructing:

(A) Consolidated rental car facilities.

(B) An airport-mandated common use transportation system for the movement of passengers between the terminals and the consolidated on-airport rental car facilities.

(8) Revenues collected from the fees are not applied to costs for the design and construction of a consolidated rental car facility in excess of $155 million or to costs for the design and construction of a common use transportation system in excess of $120 million.

(b) Notwithstanding subdivision (m) of Section 1936, a rental car company conducting business with customers that use an airport-mandated common use busing system operated for the movement of passengers between the terminal and an interim car rental facility at San Jose International Airport shall surcharge a fee to its customers. The surcharge shall meet all of the following criteria:

(1) The fee is imposed by the City of San Jose, by duly adopted ordinance or resolution, and is required to be remitted to the City of San Jose by the rental car company for the purpose of providing the common use busing system.

(2) The fee is imposed on a per contract basis, not to exceed five dollars ($5) per contract.

(3) The fee collected for this purpose is debt owed to the airport by the collecting party. The debt is due and payable to the airport, monthly, quarterly, or at any other interval the airport may establish to facilitate collection and ensure payment.

(4) The fee is a user fee, and not a tax, and the fee is not related to property under Article XIII D of the California Constitution.

(5) Revenues collected from the fee may not exceed the reasonable costs of providing the busing and may not be used for any other purpose.

(6) The authority to collect the fee under this section expires when collection of the fee described in subdivision (a) of this section commences.

(c) A rental car company that charges its customers a fee pursuant to subdivision (a) or (b) shall do all of the following with respect to any advertisements or quotations of rental rates applicable to San Jose International Airport:

(1) Clearly disclose the existence and amount of the fee in any radio, television, or other electronic media advertisement.

(2) Clearly disclose the existence and amount of the fee in any print advertising, in a print size no smaller than the print size of the rental rate.

(3) Clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car.

(4) In any computer-assisted transaction, prominently display the fee on the same page on the computer screen with the displayed rental rate, in a print size no smaller than the print size of the rental rate.

(5) Separately identify the purpose of the fee and the amount on its rental agreement.

(d) If any person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental subject to a surcharge imposed pursuant to subdivision (a) or (b), that person or entity shall, to the extent not specifically prohibited by federal law, clearly disclose the existence and the amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car.

(e) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section shall not be subject to sales, use, or transaction taxes.

(f) The authorization to surcharge fees provided in this section shall become inoperative as of the date described in paragraph (4) of subdivision (a).

(g) A rental car company that surcharges its customers a fee pursuant to this section shall remit the amounts collected to the City of San Jose, in accordance with any applicable local ordinance, resolution, indenture, or financing document.

(h) A rental car company that surcharges a fee pursuant to this section and does not comply with the disclosure requirements of subdivision (c) or a person or entity that does not comply with subdivision (d) shall be subject to all applicable remedies for failing to make required disclosures, including, but not limited to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

SEC. 2. The Legislature finds and declares with respect to Section 1 of this act 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 funding, public service, and jurisdictional concerns involving the City of San Jose and the San Jose International Airport.

CHAPTER 761

An act relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve an agreement pursuant to Section 3517 of the Government Code entered into by the state employer and a recognized employee organization.

SEC. 2. The provisions of the memorandum of understanding, prepared pursuant to Section 3517.5 of the Government Code, and entered into by the state employer and the California Union of Safety Employees, and that require the expenditure of funds or legislative action to permit their implementation, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memorandum of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 1999, and that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1999–2000 fiscal year and thereby facilitate the orderly

administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 762

An act to amend Section 11364.7 of the Health and Safety Code, relating to distribution of needles and syringes.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 11364.7 of the Health and Safety Code is amended to read:

11364.7. (a) Except as authorized by law, any person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

No public entity, its agents, or employees shall be subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

(b) Except as authorized by law, any person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.

(c) Except as authorized by law, any person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years his or her junior, or who, upon the grounds of a public or private elementary, vocational, junior high, or high school, possesses a hypodermic needle, as defined in paragraph (7)

of subdivision (a) of Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or (c) by a holder of a business or liquor license issued by a city, county, or city and county, or by the State of California, and in the course of the licensee's business shall be grounds for the revocation of that license.

(e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and may be seized by any peace officer pursuant to Section 11471.

(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

CHAPTER 763

An act to add Section 123302 to the Health and Safety Code, relating to supplemental food programs.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) The California Special Supplemental Food Program for Women, Infants, and Children (WIC) is a vital program for meeting the health needs of pregnant, postpartum, and lactating women, infants, and young children at nutritional risk.

(b) The Food Stamp Program and other federal cash assistance programs are rapidly moving to provide benefits through electronic benefits transfer (EBT).

(c) Redemption of WIC checks in grocery stores is a slow process that inconveniences WIC participants, vendors, patrons of vendors, and store clerks.

(d) The United States Department of Agriculture, which administers the WIC program, states that current WIC redemptions

are the most costly transaction retailers undertake in the course of the shopping day, and urges state agencies to incorporate EBT in their management systems to promote cost control and quality of client services.

(e) Various federal, state, and local financial and food assistance programs may require different EBT applications to meet their specific programmatic requirements.

SEC. 2. Section 123302 is added to the Health and Safety Code, to read:

123302. (a) (1) Notwithstanding any other provision of law, the department may design, implement, and fund an electronic benefits transfer (EBT) system for the California Special Supplemental Food Program for Women, Infants, and Children. Sections 10066, 10067, and 10068 of, and subdivision (j) of Section 10072 of, the Welfare and Institutions Code, shall apply to the administration of this section.

(2) The department may not implement any electronic benefits transfer system authorized by this section until the department completes a feasibility study, and funding for the system is provided in the annual Budget Act.

(b) The department shall seek the advice of the Electronic Benefits Transfer Committee, created by Section 10067 of the Welfare and Institutions Code, in implementing this section, and shall obtain the approval of the United States Department of Agriculture, which is the federal governing agency, prior to the establishment of any electronic benefits transfer system.

CHAPTER 764

An act to add Sections 40148, 40196.3, and 41821.2 to, to add Chapter 18.5 (commencing with Section 42920) to Part 3 of Division 30 of, and to repeal Sections 42922, 42923, 42927, and 42928 of, the Public Resources Code, relating to recycling.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 40148 is added to the Public Resources Code, to read:

40148. "Large state facility" means those campuses of the California State University and the California Community Colleges, prisons within the Department of Corrections, facilities of the State Department of Transportation, and facilities of other state agencies, that the board determines, are primary campuses, prisons, or facilities.

SEC. 2. Section 40196.3 is added to the Public Resources Code, to read:

40196.3. "State agency" means every state office, department, division, board, commission, or other agency of the state, including the California Community Colleges and the California State University. The Regents of the University of California are encouraged to implement this division.

SEC. 3. Section 41821.2 is added to the Public Resources Code, to read:

41821.2. (a) For the purposes of this section, "district" means a community service district that provides solid waste handling services or implements source reduction and recycling programs.

(b) Notwithstanding any other law, each district shall provide the city, county, or regional agency in which it is located, information on the programs implemented by the district and the amount of waste disposed and diverted within the district. The board may adopt regulations pertaining to the format of the information to be provided and deadlines for supplying this information to the city, county, or regional agency so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.

SEC. 4. Chapter 18.5 (commencing with Section 42920) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 18.5. STATE AGENCY INTEGRATED WASTE MANAGEMENT PLAN

42920. (a) On or before February 15, 2000, the board shall adopt a state agency model integrated waste management plan for source reduction, recycling, and composting activities.

(b) (1) On or before July 1, 2000, each state agency shall develop and adopt, in consultation with the board, an integrated waste management plan, in accordance with the requirements of this chapter. The plan shall build upon existing programs and measures, including the state agency model integrated waste management plan adopted by the board pursuant to subdivision (a), that will reduce solid waste, reuse materials whenever possible, recycle recyclable materials, and procure products with recycled content in all state agency offices and facilities, including any leased locations. It is the intent of the Legislature that the local jurisdiction and the state agency or large state facility located within that jurisdiction work together to implement the state agency integrated waste management plan.

(2) Each state agency shall submit an adopted integrated waste management plan to the board for review and approval on or before July 15, 2000. The board shall adopt procedures for reviewing and approving those integrated waste management plans. The board shall complete its plan review process on or before January 1, 2001.

(3) If a state agency has not submitted an adopted integrated waste management plan or the model integrated waste management plan with revisions to the board by January 1, 2001, or if the board has disapproved the plan that was submitted, then the model integrated waste management plan, as revised by the board in consultation with the agency, shall take effect on that date, or on a later date as determined by the board, and shall have the same force and effect as if adopted by the state agency.

(c) Notwithstanding subdivision (b) of Section 12159 of the Public Contract Code, at least one solid waste reduction and recycling coordinator shall be designated by each state agency. The coordinator shall perform the duties imposed pursuant to this chapter using existing resources. The coordinator shall be responsible for implementing the integrated waste management plan and shall serve as a liaison to other state agencies and coordinators.

(d) The board shall provide technical assistance to state agencies for the purpose of implementing the integrated waste management plan.

42921. (a) Each state agency and each large state facility shall divert at least 25 percent of all solid waste generated by the state agency from landfill disposal or transformation facilities by January 1, 2002, through source reduction, recycling, and composting activities.

(b) On and after January 1, 2004, each state agency and each large state facility shall divert at least 50 percent of all solid waste from landfill disposal or transformation facilities through source reduction, recycling, and composting activities.

42922. (a) On and after January 1, 2002, upon the request of a state agency or a large state facility, the board may establish a source reduction, recycling, and composting requirement that would be an alternative to the 50-percent requirement imposed pursuant to subdivision (b) of Section 42921, if the board holds a public hearing and makes all of the following findings based upon substantial evidence on the record:

(1) The state agency or a large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The state agency or the large state facility has been unable to meet the 50-percent diversion requirement despite implementing the measures described in paragraph (1).

(3) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the state agency or the large state facility may reasonably and feasibly achieve.

(b) In making the decision whether to grant an alternative requirement pursuant to subdivision (a), and in determining the amount of the alternative requirement, the board shall consider

circumstances that support the request for an alternative requirement, such as waste disposal patterns and the types of waste disposed by the state agency or the large state facility. The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the alternative requirement.

(c) If a state agency or a large state facility that requests an alternative source reduction, recycling, and composting requirement has not previously requested an extension pursuant to Section 42923, the state agency or the large state facility shall provide information to the board that explains why it has not requested an extension.

(d) A state agency or a large state facility that has previously been granted an alternative source reduction, recycling, and composting requirement may request another alternative source reduction, recycling, and composting requirement. A state agency or a large state facility that requests another alternative requirement shall provide information to the board that demonstrates that the circumstances that supported the previous alternative source reduction, recycling, and composting requirement continue to exist, or shall provide information to the board that describes changes in those previous circumstances that support another alternative source reduction, recycling, and composting requirement. The board shall review the original circumstances that supported the state agency's or the large state facility's request, as well as any new information provided by the state agency or the large state facility that describes the current circumstances, to determine whether to grant another alternative requirement. The board may approve another alternative requirement if the board holds a public hearing and makes both of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount the state agency or the large state facility may reasonably and feasibly achieve.

(e) If the board establishes a new alternative requirement or rescinds the existing alternative requirement, the board shall do so at a public hearing. If the board establishes a new alternative requirement, it shall make all of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling,

and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The former alternative diversion requirement is no longer appropriate.

(3) The new alternative requirement represents the greatest amount of diversion that the state agency or the large state facility may reasonably and feasibly achieve.

(f) (1) No single alternative requirement may be granted for a period that exceeds three years and, if after the granting of the original alternative requirement, another alternative requirement is granted, the combined period that the original and the new alternative requirement is in force and effect shall not exceed a total of five years.

(2) No alternative requirement shall be granted for any period after January 1, 2006, and no alternative requirement shall be effective after January 1, 2006.

(3) No state agency or large state facility shall be granted an alternative requirement if the state agency or the large state facility has failed to meet, on or before January 1, 2002, the requirements of subdivision (a) of Section 42921.

(g) (1) When considering a request for an alternative source reduction, recycling, and composting requirement, the board may make specific recommendations for the implementation of the alternative plan.

(2) Nothing in this section precludes the board from disapproving any request for an alternative requirement.

(3) If the board disapproves a request for an alternative requirement, the board shall specify, in writing, the reasons for its disapproval.

(h) If the board grants an alternative source reduction, recycling, and composting requirement, the state agency may request technical assistance from the board to assist it in meeting the alternative source reduction, recycling, and composting requirement. If requested by the state agency or the large state facility, the board shall assist with identifying model policies and plans implemented by other agencies.

(i) A state agency or a large state facility that is granted an alternative requirement pursuant to this section shall continue to implement source reduction, recycling, and composting programs, and shall report the status of those programs in the report required pursuant to Section 42926.

(j) 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.

42923. (a) The board may grant one or more single or multiyear time extensions from the requirements of subdivision (a) of Section

42921 to any state agency or large state facility if all of the following conditions are met:

(1) Any multiyear extension that is granted does not exceed three years, and a state agency or a large state facility is not granted extensions that exceed a total of five years.

(2) No extension is granted for any period after January 1, 2006, and no extension is effective after January 1, 2006.

(3) The board considers the extent to which a state agency or a large state facility complied with its plan of correction before considering another extension.

(4) The board adopts written findings, based upon substantial evidence in the record, as follows:

(A) The state agency or the large state facility is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.

(B) The state agency or the large state facility submits a plan of correction that demonstrates that the state agency or the large state facility will meet the requirements of Section 42921 before the time extension expires, includes the source reduction, recycling, or composting steps the state agency or the large state facility will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, existing programs that it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

(b) (1) When considering a request for an extension, the board may make specific recommendations for the implementation of the alternative plans.

(2) Nothing in this section shall preclude the board from disapproving any request for an extension.

(3) If the board disapproves a request for an extension, the board shall specify its reasons for the disapproval.

(c) (1) In determining whether to grant the request by a state agency or a large state facility for the time extension authorized by subdivision (a), the board shall consider information provided by the state agency or the large state facility that describes relevant circumstances that contributed to the request for extension, such as a lack of markets for recycled materials, local efforts to implement source reduction, recycling, and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed by agency.

(2) The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the extension.

(d) If the board grants a time extension pursuant to subdivision (a), the state agency may request technical assistance from the board

to assist it in meeting the diversion requirements of subdivision (a) of Section 42921 during the extension period. If requested by the state agency or the large state facility, the board shall assist the state agency or the large state facility with identifying model policies and plans implemented by other agencies.

(e) 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.

42924. (a) On or before February 15, 2000, the board shall develop and adopt requirements relating to adequate areas for collecting, storing, and loading recyclable materials in state buildings. In developing the requirements, the board may rely on the model ordinance adopted pursuant to Chapter 18 (commencing with Section 42900).

(b) Each state agency or large state facility, when entering into a new lease, or renewing an existing lease, shall ensure that adequate areas are provided for, and adequate personnel are available to oversee, the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

(c) In the design and construction of state agency offices and facilities, the Department of General Services shall allocate adequate space for the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

42925. (a) Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency's integrated waste management plan to fund plan implementation and administration costs, in accordance with Sections 12167 and 12167.1 of the Public Contract Code.

(b) The board shall establish and implement a waste reduction award program for state agencies and large state facilities that develop, adopt, and implement innovative and effective integrated waste management plans in compliance with this chapter.

42926. (a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before April 1, 2002, and on or before April 1 in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the board shall, at a minimum, include all of the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) If the agency has been granted a time extension by the board pursuant to Section 42923, the state agency shall include a summary of progress made in meeting the integrated waste management plan implementation schedule pursuant to subdivision (b) of Section 42921 and complying with the state agency's plan of correction, prior to the expiration of the time extension.

(6) If the state agency has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 42922, the state agency shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(7) Other information relevant to compliance with Section 42921.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

42927. (a) If a state agency is unable to comply with the requirements of this chapter, the agency shall notify the board in writing, detailing the reasons for its inability to comply and shall request an alternative pursuant to Section 42922 or an extension pursuant to Section 42923.

(b) 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.

42928. (a) The board may adopt regulations that establish specified criteria for granting, reviewing, and considering reductions or extensions pursuant to Sections 42922 and 42923.

(b) 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. 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.

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CHAPTER 765

An act to add Part 3 (commencing with Section 475) to Division 1 of the Health and Safety Code, relating to public health.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

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

(a) Tuberculosis (TB) disease rates in southern California counties, including Los Angeles, San Diego, and Imperial, are higher than the rest of the state and the nation. Mexican-born patients comprise approximately 30 percent of southern California's reported TB cases, and rates of drug-resistant TB strains have been documented by the United States Public Health Services in a study of border counties to be almost seven times higher among foreign-born Hispanic patients than among United States-born non-Hispanic patients.

(b) Rates of hepatitis A and gastrointestinal illnesses such as shigella are higher in southern California than in the rest of the state and the nation, with the highest rates seen in Hispanics.

(c) Communicable disease tracking by public health authorities is often severely hampered by the movement of infectious cases across the border.

(d) Imperial County does not meet California Environmental Protection Agency standards for ambient ozone levels, at least in part due to increasing traffic at the Calexico-Mexicali border, and Imperial County childhood asthma hospitalization rates have increased annually since 1989.

(e) The New River in Imperial County is the most polluted in the nation, containing more than 100 chemicals and receiving 76 million liters of raw sewage each day.

(f) Recent outbreaks of mercury poisoning related to a beauty cream, and hepatitis A related to contaminated strawberries, underscore the need for better notification systems between United States and Mexican health authorities regarding contaminated commercial products and related investigations.

SEC. 2. Part 3 (commencing with Section 475) is added to Division 1 of the Health and Safety Code, to read:

PART 3. OFFICE OF BINATIONAL BORDER HEALTH

475. (a) (1) The State Department of Health Services shall establish a permanent Office of Binational Border Health to facilitate cooperation between health officials and health professionals in

California and Mexico, to reduce the risk of disease in the California border region, and in those areas directly affected by border health conditions.

(2) The department shall administer the office, and shall seek available public or private funding, or both, to support the activities of the office.

(b) The Office of Binational Border Health shall convene a voluntary community advisory group of representatives of border community-based stakeholders to develop a strategic plan with short-term, intermediate, and long-range goals and implementation actions. The advisory group shall include no more than 12 California representatives. The advisory group shall include, but not be limited to, members from local government, hospitals, health plans, community-based organizations, universities, Los Angeles, San Diego, and Imperial County health departments, and a representative from an association of local health officers specializing in border health issues. The office shall invite and request appropriate participation from representatives of the Baja California health department and other Mexican health departments affected by border health issues. Recommendations resulting from the strategic plan shall be developed and shared in consultation with the California appointees to the United States-Mexico Border Health Commission established pursuant to Section 290n of Title 22 of the United States Code, including the Director of Health Services. The office shall prepare an annual border health status report, and shall submit it to the Director of Health Services, the Legislature, and the Governor.

CHAPTER 766

An act to add Section 56.31 to the Civil Code, and to amend Section 3762 of the Labor Code, relating to workers' compensation.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 56.31 is added to the Civil Code, to read:

56.31. Notwithstanding any other provision of law, nothing in subdivision (f) of Section 56.30 shall permit the disclosure or use of medical information regarding whether a patient is infected with or exposed to the human immunodeficiency virus without the prior authorization from the patient unless the patient is an injured worker claiming to be infected with or exposed to the human immunodeficiency virus through an exposure incident arising out of and in the course of employment.

SEC. 2. Section 3762 of the Labor Code is amended to read:

3762. (a) Except as provided in subdivisions (b) and (c), the insurer shall discuss all elements of the claim file that affect the employer's premium with the employer, and shall supply copies of the documents that affect the premium at the employer's expense during reasonable business hours.

(b) The right provided by this section shall not extend to any document that the insurer is prohibited from disclosing to the employer under the attorney-client privilege, any other applicable privilege, or statutory prohibition upon disclosure, or under Section 1877.4 of the Insurance Code.

(c) An insurer, third-party administrator retained by a self-insured employer pursuant to Section 3702.1 to administer the employer's workers' compensation claims, and those employees and agents specified by a self-insured employer to administer the employer's workers' compensation claims, are prohibited from disclosing or causing to be disclosed to an employer, any medical information, as defined in subdivision (b) of Section 56.05 of the Civil Code, about an employee who has filed a workers' compensation claim, except as follows:

(1) If the diagnosis of the injury for which workers' compensation is claimed would affect the employer's premium, then an insurer may disclose that diagnosis pursuant to subdivision (a).

(2) Medical information regarding the injury for which workers' compensation is claimed that is necessary for the employer to have in order for the employer to modify the employee's work duties.

SEC. 3. The addition of Section 56.31 to the Civil Code by this act is not intended either to abrogate the holdings in Allison v. Workers' Comp. Appeals Bd. (1999) 72 Cal.App.4th 654, or to prohibit a redaction decision by a workers' compensation judge from being appealed to the Workers' Compensation Appeals Board.

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.

CHAPTER 767

An act to amend Sections 999, 999.5, and 999.7 of, and to add Sections 999.2, 999.11, and 999.12 to, the Military and Veterans Code, relating to veterans.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 999 of the Military and Veterans Code is amended to read:

999. As used in this article, the following definitions apply:

(a) "Administering agency" means the Treasurer in the case of contracts for professional bond services, and the Department of General Services' Office of Small Business Certification and Resources, formerly known as the Office of Small and Minority Business, in the case of contracts governed by Section 999.2.

(b) "Awarding department" means any state agency, department, governmental entity, or other officer or entity empowered by law to issue bonds or enter into contracts on behalf of the State of California.

(c) "Bonds" means bonds, notes, warrants, certificates of participation, and other evidences of indebtedness issued by or on behalf of the State of California.

(d) "Contract" includes any agreement or joint agreement to provide professional bond services to the State of California or an awarding department. "Contract" also includes any agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the State of California.

(e) "Contractor" means any person or persons, regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age, or any sole proprietorship, firm, partnership, joint venture, corporation, or combination thereof who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California. "Contractor" includes any provider of professional bond services who enters into a contract with an awarding department.

(f) "Disabled veteran" means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts ("Old Scouts"), and the Special Philippine Scouts ("New Scouts"), with a service-connected disability who is a resident of the State of California.

(g) (1) "Disabled veteran business enterprise" means a business concern certified by the administering agency as meeting all of the following requirements:

(A) It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled

veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.

(B) The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.

(C) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(2) Notwithstanding paragraph (1), after the death or the certification of a permanent medical disability of a disabled veteran who is a majority owner of a business concern that qualified as a disabled veteran business enterprise prior to that death or certification of a permanent medical disability, and solely for purposes of any contract entered into before that death or certification, that business concern shall be deemed to be a disabled veteran business enterprise for a period not to exceed three years after the date of that death or certification of a permanent medical disability, if the business concern is inherited or controlled by the spouse or child of that majority owner, or by both of those persons.

(h) "Foreign corporation," "foreign firm," and "foreign-based business" means a business entity that is incorporated or has its principal headquarters located outside the United States of America.

(i) "Goal" means a numerically expressed objective that awarding departments and contractors are required to make efforts to achieve.

(j) "Management and control" means effective and demonstrable management of the business entity.

(k) "Professional bond services" include services as financial advisers, bond counsel, underwriters in negotiated transactions, underwriter's counsel, financial printers, feasibility consultants, and other professional services related to the issuance and sale of bonds.

SEC. 2. Section 999.2 is added to the Military and Veterans Code, to read:

999.2. Notwithstanding any other provision of law, contracts awarded by any state agency, department, officer, or other state governmental entity for construction, professional services (except those subject to Chapter 6 (commencing with Section 16850) of Part 3 of Division 4 of Title 2 of the Government Code), materials, supplies, equipment, alteration, repair, or improvement shall have statewide participation goals of not less than 3 percent for disabled veteran business enterprises. These goals apply to the overall dollar amount expended each year by the awarding department.

SEC. 3. Section 999.5 of the Military and Veterans Code is amended to read:

999.5. (a) The administering agency shall establish a method of monitoring adherence to the goal specified in Section 999.1, including requiring a followup report from all contractors upon the completion of any sale of bonds.

(b) The awarding department shall establish a method of monitoring adherence to the goals specified in Section 999.2.

(c) The administering agency shall adopt rules and regulations, including standards for good faith efforts for the purpose of implementing this section. Emergency regulations consistent with this section may be adopted.

SEC. 4. Section 999.7 of the Military and Veterans Code is amended to read:

999.7. (a) Notwithstanding Section 7550.5 of the Government Code, on January 1 of each year, each awarding department shall report to the Governor, the Legislature, the Office of Small Business Certification and Resources, and the Department of Veterans Affairs on the level of participation by disabled veteran business enterprises in contracts identified in this article. If the established goals are not met, the awarding department shall report to the the Legislature, the Office of Small Business Certification and Resources, and the Department of Veterans Affairs the reasons for the awarding department's inability to achieve the goals and identify steps it shall take in an effort to achieve the goals.

(b) Notwithstanding Section 7550.5 of the Government Code, on April 1 of each year, the Office of Small Business Certification and Resources shall prepare for the Governor, the Legislature, and the Department of Veterans Affairs a statewide statistical summary detailing each awarding department's goal achievement and a statewide total of those goals.

SEC. 5. Section 999.11 is added to the Military and Veterans Code, to read:

999.11. The Department of Veterans Affairs shall appoint an advocate to do all of the following:

(a) Oversee, promote, and coordinate efforts to facilitate implementation of this article.

(b) Disseminate information on this article.

(c) Coordinate reports pursuant to Section 999.7.

(d) Coordinate with administering agencies and existing and potential disabled veteran business enterprises to achieve the goals specified in Sections 999.1 and 999.2.

SEC. 6. Section 999.12 is added to the Military and Veterans Code, to read:

999.12. This article includes language similar to that contained in Article 1.5 (commencing with Section 10115) of Chapter 1 of Part 2

of Division 2 of the Public Contract Code and does not create an independent or additional goal or program.

CHAPTER 768

An act to amend Section 11042 of the Government Code, and to amend Section 1035 of the Insurance Code, relating to insurance.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 11042 of the Government Code is amended to read:

11042. No state agency, commissioner, or officer shall employ any legal counsel other than the Attorney General, or one of his assistants or deputies, in any matter in which the agency, commissioner, or officer is interested, or is a party as a result of office or official duties.

SEC. 2. Section 1035 of the Insurance Code is amended to read:

1035. (a) In any proceeding under this article, the commissioner shall have the power to appoint and employ under his or her hand and official seal, special deputy commissioners, as his or her agents, and to employ clerks and assistants and to give to each of them those powers that he or she deems necessary. Upon appointing or employing special deputy commissioners, clerks, or assistants, the commissioner shall notify the Chair of the Joint Budget Committee of the Legislature, by letter, of the action. The costs of employing special deputy commissioners, clerks, and assistants appointed to carry out this article, and all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of that person under this article, shall be fixed by the commissioner, subject to the approval of the court, and shall be paid out of the assets of that person to the department. In the event the property of that person does not contain cash or liquid assets sufficient to defray the cost of the services required to be performed under the terms of this article, the commissioner may at any time or from time to time pay the cost of those services out of the appropriation for the maintenance of the department, but not out of the assets of other estates. Any amounts so paid shall be deemed expense of administration and shall be repaid to the fund out of the first available moneys in the estate.

(b) Any person appointed by the commissioner to serve in the capacity of chief executive officer of the department's Conservation and Liquidation Office shall be subject to confirmation by the Senate.

CHAPTER 769

An act to amend Section 54957.5 of, and to add Sections 6254.22 and 54956.87 to, the Government Code, relating to public records.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 6254.22 is added to the Government Code, to read:

6254.22. Nothing in this chapter or any other provision of law shall require the disclosure of records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption. The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

SEC. 2. Section 54956.87 is added to the Government Code, to read:

54956.87. (a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health

care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (c) of Section 32106 of the Health and Safety Code, shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

SEC. 3. Section 54957.5 of the Government Code is amended to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency 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, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

CHAPTER 770

An act to add Sections 19822.7 and 20963.1 to the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 19822.7 is added to the Government Code, to read:

19822.7. (a) There is hereby created in the State Treasury the Work and Family Fund to which funds shall be allocated from the amount negotiated in memoranda of understanding between the state and the recognized employee organization, as defined in Section 3513, and appropriated by the Legislature, for the 2000–01 fiscal year and subsequent fiscal years.

(b) The fund shall be used to establish and maintain work and family programs for state employees. These programs may include, but are not limited to, financial assistance to aid in the development of child care centers administered by either nonprofit corporations formed by state employees or child care providers, or to provide grants, subsidies, or both grants and subsidies for child care and elder care. Other programs may include enhancement or supplementation of existing employee assistance program services and other work and family programs.

(c) The fund shall be administered by the Department of Personnel Administration. The amounts to be allocated and

expended from funds available for compensation shall be determined by the department.

(d) Notwithstanding Section 13340, funds in the fund shall be available for expenditure without regard to fiscal years through June 30, 2005. As of June 30, 2005, the fund shall cease to exist and any balance in the fund shall revert to the General Fund, unless the existence of the fund is extended by statute and that statute is enacted and becomes effective prior to June 30, 2005.

SEC. 2. Section 20963.1 is added to the Government Code, to read:

20963.1. (a) A state member whose effective date of retirement is within four months of separation from employment of the state, shall be credited at his or her retirement with 0.004 year of service for each unused day of educational leave credit, as certified to the board by the employer. The provisions of this section shall be effective for eligible state members who retire directly from state employment on and after January 1, 2000.

(b) This section shall apply to eligible state members in state bargaining units that have agreed to this section in a memorandum of understanding, or as authorized by the Director of the Department of Personnel Administration for classifications of state employees that are excluded from the definition of "state employee" by paragraph (c) of Section 3513 of the Government Code.

SEC. 3. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations in 1999, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 20-California State Employees Association.

(b) Unit 21-California State Employees Association.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Any provision in a memorandum of understanding approved by any section of this act that requires the expenditure of funds shall not take effect unless funds for these provisions are appropriated by the Legislature. If funds for these provisions are not appropriated by the Legislature, all or any part of the memorandum of understanding may be declared null and void by any affected employee organization.

SEC. 6. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund for transfer to the Work and Family Fund to provide for the establishment and administration of the work and family program initiatives. Any additional funds for

subsequent fiscal years shall be transferred from the amount appropriated in the annual Budget Act for employee compensation.

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 for the provisions of this act to be applicable as soon as possible in the 1999-2000 fiscal year and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 771

An act to amend Section 31596 of the Government Code, relating to local government.

[Approved by Governor October 7, 1999. Filed with Secretary of State October 10, 1999.]

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

SECTION 1. Section 31596 of the Government Code is amended to read:

31596. (a) When securities belonging to or held for the retirement association are sold, the county treasurer shall deliver the securities to the purchaser upon receiving the proceeds, and may execute any and all documents necessary to transfer title. The duties imposed upon the county treasurer by this article are a part of his or her official duties, for the faithful performance of which he or she is liable on his or her official bond.

(b) The board may, or if authorized by the board, the treasurer shall authorize a state or federally chartered depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or any trust company licensed under state or federal law to conduct the business of a trust company or any Federal Reserve Bank, to act as custodian of any securities owned by the retirement association. In that case, the duties imposed by subdivision (a) upon the county treasurer shall instead be performed by the board and shall be included in any agreement for custodial services. Any of these banks or trust companies may be authorized to collect the income from the securities and deposit the proceeds in an account established by the board for the retirement association.
